


  
 City Attorney

 FILED  
 OFFICE OF THE CITY CLERK  
 OAKLAND

 2017 JAN 31 PM 2:47  
 Revised at January 17, 2017 Council Meeting

## OAKLAND CITY COUNCIL

 RESOLUTION No. 86564 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTER OR DESIGNEE TO INCREASE THE 2016-2017 PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OAKLAND AND POLICE PERFORMANCE SOLUTIONS, LLC FOR MONITORING AND TECHNICAL ASSISTANCE SERVICES IN DELPHINE ALLEN V. CITY OF OAKLAND IN AN AMOUNT NOT TO EXCEED SEVENTY FIVE THOUSAND DOLLARS (\$75,000), WAIVE THE CITY'S ADVERTISING AND BIDDING AND REQUEST FOR PROPOSALS / QUALIFICATIONS REQUIREMENTS, AND AUTHORIZE A ONE-YEAR TWO-MONTH EXTENSION (THROUGH JANUARY MARCH 20, 2018) OF THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OAKLAND AND POLICE PERFORMANCE SOLUTIONS, LLC FOR MONITORING AND TECHNICAL ASSISTANCE SERVICES IN DELPHINE ALLEN V. CITY OF OAKLAND, IN THE AMOUNT OF SEVEN HUNDRED TWENTY TWO THOUSAND SEVENTY SIX ONE HUNDRED TWENTY THOUSAND THREE HUNDRED FORTY SIX DOLLARS (\$722,076,120,346) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED SIX MILLION EIGHTY NINE THOUSAND ISX HUNDRED NINETY SIX DOLLARSSIX HUNDRED NINETY ONE THOUSAND THREE HUNDRED NINETY SIX DOLLARS (\$6,691,3966,089,696).

**WHEREAS**, in 2000 a number of plaintiffs filed *Delphine Allen et al. v. City of Oakland* (United States District Court Case no. C00-4599 TEH), which commonly is referred to as the *Riders* case, alleging that four Oakland police officers violated their civil rights by planting evidence, committing perjury and using excessive force; and

**WHEREAS**, the City terminated the four officers; an arbitrator upheld the terminations of the three officers who challenged their terminations; and

**WHEREAS**, the Alameda County District Attorney dismissed numerous cases because the officers' testimony was unreliable; released a number of the plaintiffs who were in custody and criminally prosecuted three of the officers; and a fourth officer fled and has not been located; and

**WHEREAS**, in 2003 the City Council approved the Negotiated Settlement Agreement ("NSA") to resolve the *Riders* case and the Court issued an order approving the NSA and retained jurisdiction to oversee compliance; and

**WHEREAS**, the NSA requires that the City institute police reforms to ensure that Oakland police officers exercise their powers and perform their duties in compliance with constitutional standards and that the parties to the NSA work with an Independent Monitor who would help the Court oversee compliance; and the parties subsequently executed a Memorandum of Understanding (“MOU”) and an Amended Memorandum of Understanding (“AMOU”) that superseded the NSA and the City continues to implement the remaining compliance tasks; and

**WHEREAS**, in 2009 the Oakland Police Department selected Police Performance Solutions, LLC (formerly Alexandria Group of MPRI) to serve as Independent Monitor under the NSA/MOU in accordance with the City’s contract procedures and laws, and in December 2009 the City Council approved the two-year contract which expired on January 20, 2012 in the amount of \$1,500,000 through Resolutions 82448 C.M.S. and 82491 C.M.S.; and

**WHEREAS**, in June 2010 the City Council passed Resolution 82856 C.M.S. which increased the budget amount of the contract with Police Performance Solutions, LLC by the amount of \$100,320 to cover technical assistance services; and

**WHEREAS**, in June 2011 the City Council waived advertising and competitive processes and approved a two-year extension of the contract with Police Performance Solutions, LLC for \$1,684,000, which expired on January 20, 2014 in Resolution 83380; and

**WHEREAS**, in February 2012 the City Council passed Resolution 83728 C.M.S., which increased the budget amount of the contract with Police Performance Solutions, LLC by the amount of \$100,000 to cover technical assistance services; and

**WHEREAS**, in December 2013 the City Council waived the advertising and competitive bidding processes and approved a one-year extension of the contract with Police Performance Solutions, LLC for \$910,000 which expired on January 20, 2015 through Resolution 84759 C.M.S.; and

**WHEREAS**, in January 2015, through Resolution 85369 C.M.S., the City Council waived advertising and competitive bidding processes and approved a one-year extension of the contract with Police Performance Solutions, LLC for \$950,000 which expired on January 20, 2016; and

**WHEREAS**, in January 2016, the City Council waived advertising and competitive processes and approved a one-year extension of the contract with Police Performance Solutions, LLC for \$650,000 which will expire January 20, 2017 through Resolution 85968 C.M.S.; and

**WHEREAS**, in March 2016, the Court issued an order (*Order RE: Internal Affairs Case No. 15-0771, Mar. 23, 2016*) citing irregularities and potential violations of the Negotiated Settlement Agreement, leading to a need for increased technical assistance and oversight by the Monitor; and

**WHEREAS**, the City Administrator has recommended that the City Council authorize an increase in the 2016-2017 contract with Police Performance Solutions, LLC for monitoring services; and

**WHEREAS**, the City Administrator has recommended that the City Council authorize extension of the contract with Police Performance Solutions, LLC for monitoring services for up to one year, and that the Council waive advertising and competitive processes; and

**WHEREAS**, sufficient funds have been budgeted in General Purpose Fund (1010), Office of the Inspector General (OIG) Org (101130), Compliance Director Project (A468570), Miscellaneous Contract Account (54919), Agency Wide Administration Program (PS01) to pay for this contract; and

**WHEREAS**, Oakland Municipal Code sections 2.04.050 and 2.04.051 authorize the City Council to waive advertising and competitive processes for awarding contracts upon a finding that it is in the City's best interests and, here, continuing the contract with Police Performance Solutions LLC. serves the City's interests by retaining monitors who are familiar with compliance standards and OPD operations and dispensing with the lengthy process of advertising, competitively bidding and selecting a new monitoring team; and

**WHEREAS**, the City lacks personnel to perform the work, and the City Council finds and determines that the services contract authorized hereunder is of a professional, scientific or technical and temporary nature, and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now therefore be it

**RESOLVED:** That the Council authorizes the City Administrator to increase the 2016-2017 contract with Police Performance Solutions, LLC for monitoring services in the amount of \$75,000, for a total contract amount of \$725,000; and be it

**RESOLVED:** That the Council authorizes the City Administrator to execute an agreement extending the contract with Police Performance Solutions, LLC for monitoring services for an amount not to exceed ~~\$722,076~~120,346 for ~~two months one year, i.e., no longer than January 20, 2018,~~ provided that the City Administrator may amend the scope of services and/or provide for earlier termination of the contract if appropriate so long as the contract amount for the extended term does not exceed ~~\$120,346~~722,076; and be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code, Chapter 2.04, sections 2.04.050 and 2.04.051 and for the reasons stated above and in the City Administrator's report accompanying this resolution, the City Council finds and determines that it is in the best interests of the City to waive the advertising and RFP/RFQ competitive process, and hereby waives these requirements; and be it

**FURTHER RESOLVED:** That funds have been budgeted in General Purpose Fund

(1010), Office of the Inspector General (OIG) Org (101130), Compliance Director Project (A468570), Miscellaneous Contract Account (54919), Agency Wide Administration Program (PS01); and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to carry out all administrative and financial actions, including negotiations, certifications, assurances, and related actions as necessary to execute, amend, or extend the contract, except for increasing the contract amount, without returning to the City Council; and be it

**FURTHER RESOLVED:** That in accordance with Article IV, section 401(6) of the City Charter, agreements authorized by this resolution shall be approved by the City Attorney for form and legality before execution and a copy of fully executed agreements shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 17 2017

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, KALB, KAPLAN,  
and PRESIDENT REID - *7 Ayes*

NOES- *0*  
ABSENT- *0*  
ABSTENTION- *0*  
EXCUSED - *Guller*

ATTEST *LaTonda Simmons*  
LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California