



AGENDA REPORT

TO: City Councilmembers

FROM: John Alden
Executive Director, CPRA

SUBJECT: Approval of Police Commission
Contract with Rania Adwan

DATE: July 1, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Waiving the Request for Proposal or Request for Qualifications Process for the Oakland Police Commission's Professional Services Contract With Rania Adwan.

EXECUTIVE SUMMARY

Pursuant to the City Council's amendments to the Oakland Municipal Code in 2019 to provide the Police Commission with the power to contract, the Police Commission entered into a contract with Rania Adwan for consulting services in 2020 after waiving competitive process. Since then, staff have observed a potential ambiguity in the purchasing ordinance that calls into question the appropriate method for waiving competitive process in Police Commission contracts. Staff now recommend that the City Council also approve the Police Commission's waiver of competitive process for this contract in an abundance of caution while the City Council separately considers amendments clarifying the existing language of the ordinance.

BACKGROUND / LEGISLATIVE HISTORY

Staff recommends that the City Council approve a recent Police Commission personal services contract with Rania Adwan via resolution. A draft of the proposed resolution is attached as **Attachment A**.

Rania Adwan is a consultant who previously worked with and advised the San Francisco Police Commission on its Use of Force policy amendment process. On July 23, 2020, the Police Commission voted to direct the CPRA Executive Director to enter into a professional services agreement with Adwan to provide policy advice, project management, and community engagement and outreach services to finalize revisions to the Oakland Police Department's Use of Force policy, in an amount not to exceed thirty-seven thousand dollars (\$37,000).

In July 2019, the City Council adopted Ordinance 13547 C.M.S., amending OMC Chapter 2.04 Purchasing System, to add section 2.04.022 to authorize the Police Commission to enter Professional Service Agreements necessary to fulfill its duties as defined in Measure LL, codified in section 604 of the Oakland City Charter.

Under OMC section 2.04.022(F), "[a]ll contracts approved by the Commission are subject to the competitive and other processes and procedures required under Sections 2.04.050 and

2.04.051 [...] *unless City Administrator or City Council waiver by resolution is obtained as necessary for each of the programs/policies.*" (emphasis added).

Ordinance 13547 C.M.S. also amended OMC sections 2.05.051(A)(2) and (B) as follows (new language indicated by underline):

2.04.051 – Competitive process and qualification-based awards for professional services contracts.

A. Request for Qualifications or Proposal for Professional Services Contracts in Excess of Fifty Thousand Dollars (\$50,000.00).

2. Police Commission Responsibility. The CPRA Director shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for all contracts to be awarded by the Police Commission. The RFP/Q process shall be conducted in accordance with Section 2.04.040 B.4., above.

B. Waiver—City Administrator Authority, City Council Authority. Upon a finding by the City Administrator that it is in the best interests of the City, the City Administrator may waive said RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000.00). The foregoing is not applicable to the Police Commission. Upon a finding by the City Council or its designee that it is in the best interests of the City, the City Council may waive said RFP/Q requirements for contracts in any amount. OMC § 2.04.051 (B) (new language indicated by underline).

Although OMC section 2.04.022(F) clearly indicates the Council's intent that the Commission be able to obtain a waiver from either the City Administrator or City Council, the new language in sections 2.04.051 (A)(2) and (B) can be read to create ambiguity as to the authority of the City Administrator to waive RFP/Q requirements on behalf of the Police Commission.

The above-listed contract with Rania Adwan was for professional services in an amount under \$50,000. The Police Commission found this consultant to be uniquely qualified and such that waiver of the competitive process was appropriate. In particular, the Police Commission noted her prior experience with a public process with San Francisco's Police Commission in considering Use of Force policy changes, a highly unusual process that happened to mirror the process the Oakland Police Commission wished to pursue in Oakland.

Upon further review, staff and the Office of the City Attorney believe a waiver from the City Council is appropriate given the potential ambiguity in the language of OMC section 2.04.051(B).

ANALYSIS AND POLICY ALTERNATIVES

The benefits of these recommended actions are as follows:

- Approval of the Police Commission contracts by Council resolution improves enforceability of the impacted Police Commission contract.

- Council demonstrates support of the Police Commission and its goals and efforts.

In the alternative, the Council could choose to take no action. In this case, the existing ambiguity in the contracting statutes leaves this contract open to challenge, which could result in this ambiguity being resolved in court. Thus, resolving this ambiguity now and in a manner of which the Council approves is preferable to the status quo.

FISCAL IMPACT

These amendments have no immediate fiscal impact, beyond staff time to memorialize the amendments appropriately in the City's Ordinances. This contract was previously authorized, the work has been completed, and the contract paid.

In the long run, this action may reduce potential litigation costs.

PUBLIC OUTREACH / INTEREST

Staff have not completed any public outreach beyond the City's Sunshine Ordinance and Brown Act requirements for posting this material to the public.

COORDINATION

The Police Commission, the Community Police Review Agency, and the Office of the City Attorney have all assisted in this matter.

SUSTAINABLE OPPORTUNITIES

Economic: None identified.

Environmental: None identified.

Race & Equity: None identified.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Waiving the Request for Proposal or Request for Qualifications Process for the Oakland Police Commission's Professional Services Contract With Rania Adwan.

For questions regarding this report, please contact John Alden, CPRA Executive Director, at 510-238-7401.

Respectfully submitted,



JOHN ALDEN
Executive Director, CPRA

Prepared by:
John Alden, CPRA Executive Director

Attachments (1):
Attachment A: Proposed Resolution