



Roll Call Number

21-0991

Agenda Item Number

40

Date June 28, 2021

APPROVING AN EXCEPTION TO THE PROCUREMENT ORDINANCE COMPETITIVE PROCESS FOR GOOD CAUSE AND APPROVING AN AGREEMENT WITH POLICE EXECUTIVE RESEARCH FORUM FOR PROFESSIONAL TRAINING OF POLICE OFFICERS TO SAFELY AND PROFESSIONALLY RESOLVE CRITICAL INCIDENTS

WHEREAS, the Chief of Police and the City Manager request approval to enter into an agreement with Police Executive Research Forum and recommend that an exception to the City procurement ordinance due to good cause shown under section 2-710(a) and (b) (authorizes City Council to exempt contracts for the provision of goods and/or services from the competitive procurement requirements of this subdivision and the request for proposal process on a case by case basis for good cause, and authorizes negotiation of a contract for direct procurement without a competitive process and/or the request for proposal process for the procurement of goods and/or services to cost in excess of \$50,000) be granted; and

WHEREAS, good cause has been established because PERF is the best provider for these services and can meet timely on-site training schedule requirements; and

WHEREAS, the Chief of Police and the City Manager recommend the approval to enter into an agreement with the Police Executive Research Forum for training of police officers to safely and professionally resolve critical incidents involving individuals who may pose a danger to themselves or others, but who are not armed with firearms in doing so reducing the need for deadly force while upholding the sanctity of life; and

WHEREAS, this Integrating Communications, Assessment and Tactics (ICAT) training will be held in Des Moines during the weeks of August 23, September 27 and October 4, 2021 for a fixed rate of \$148,436.

NOW, THEREFORE, BE ITRESOLVED by City Council of the City of Des Moines, Iowa;

- 1.) That good cause has been shown to exempt the procurement of training from the Police Executive Research Forum (PERF) from the Procurement Ordinance competitive procurement requirements.
- 2.) That the City Council hereby accepts and approves the procurement of services for the above described training from PERF, Chuck Wexler, Executive Director, and hereby approves payment in the amount of \$148,436.00 and authorizes and directs the City Manager, or his designee, to execute said agreement on behalf of the City.



Roll Call Number

21-0991

Agenda Item Number

40

Date June 28, 2021

Moved By Gatto to adopt

APPROVED AS TO FORM:

Doug Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

J. M. Franklin Cownie
Mayor

City Clerk

**AGREEMENT BETWEEN
THE DES MOINES POLICE DEPARTMENT
AND THE
POLICE EXECUTIVE RESEARCH FORUM**

RECITALS

1. The Police Executive Research Forum (referred to hereinafter as "Contractor") of Washington, D.C., is engaged in providing research, studies, audits, technical assistance, training, executive search and other professional support and consulting services to police and sheriff's departments, other law enforcement agencies at all levels of government, and police related organizations in the United States and Canada. The Des Moines Police Department provides full-service law enforcement services to the citizens of Des Moines, IA.
2. The Des Moines Police Department, in the interest of providing high quality services, desires to utilize Contractor.
3. In consideration of the mutual promises set forth herein, it is agreed by and between the Des Moines Police Department and Contractor as follows:

**SECTION ONE
SERVICES TO BE PERFORMED**

The Contractor will provide the Des Moines Police with eight courses on ICAT: Integrating Communications, Assessment, and Tactics (ICAT). Training will be held over the course of three weeks, specifically the weeks of August 23, September 27, and October 4, 2021. Training will occur at a location of the department's choice. The course is designed to help officers to safely and professionally resolve critical incidents involving individuals who may pose a danger to themselves or others, but who are not armed with firearms. Reducing the need to use deadly force, upholding the sanctity of life, building community trust, and protecting officers from physical, emotional, and legal harm are the cornerstones of ICAT.

PERF will utilize and share an instructor guide and video case studies to demonstrate scenarios and discuss ICAT techniques. PERF will provide examples on how to implement scenario-based training with the ICAT program.

**SECTION TWO
INDEPENDENT CONTRACTOR**

The parties to this contract agree that the relation created by this contract is that of the Des Moines Police Department – and – an independent contractor (PERF). No federal, state, or local income tax nor any payroll tax of any kind shall be withheld or paid by the Des Moines Police Department on behalf of the Contractor. The Contractor shall not be treated as an employee with respect to the

services performed hereunder for federal or state tax purposes. The Contractor is not eligible for, and shall not participate in any employer pension, health, or other fringe benefit plan of the Des Moines Police Department. The Des Moines Police Department will not obtain workers' compensation insurance for the Contractor and the Contractor agrees to comply with applicable workers' compensation laws. The Contractor shall adhere to all laws and ethical standards applicable and shall perform in a manner consistent with generally accepted standards.

**SECTION THREE
TERMS OF PAYMENT**

The effective date of the contract shall be June 9, 2021 and shall not extend beyond the estimated completion date of October 8, 2021 unless further extended by amendment to this contract. As compensation for performance hereunder, and upon timely and satisfactory completion of the train-the-trainer course, the Des Moines Police Department shall pay the Contractor a fixed fee of \$148,436.00. This flat rate includes fees for work performed, all travel expenses and other expenses associated with completion of this contract.

**SECTION FOUR
LIMITATION ON DELEGATION OF SERVICES**

The Contractor agrees not to delegate any duties under this contract without the Des Moines Police Department's express consent.

**SECTION FIVE
CONTROL OF WORK**

Contractor, as an independent contractor, retains the right to generally control or direct the manner or means by which the work assigned and described herein is to be performed. Any changes to the scope of work will be mutually agreeable.

**SECTION SIX
CONFLICTS**

The Contractor and its staff hereby warrant that they are under no obligation, agreement, written or verbal, nor have they previously worked or been otherwise in any position which will cause any conflict of interest to arise in connection with the services to be provided to the Des Moines Police Department. This obligation to notify the Des Moines Police Department of any potential conflict of interest pertains to both the basic contractual relationship and specific tasks to be performed under this contract.

**SECTION SEVEN
COPYRIGHTS AND DATA**

The parties agree that Contractor holds the copyright to any work produced under this agreement. As such Contractor may use, disclose, reproduce, deliver, dispose of, and authorize others to do so in any lawful manner, all such work produced by Contractor.

**SECTION EIGHT
NO AUTHORITY TO BIND PERF**

PERF, as an independent contractor, has no authority to enter into contracts or agreements on behalf of the Des Moines Police Department.

**SECTION NINE
ANTI-ASSIGNMENT**

Neither the Des Moines Police Department nor Contractor shall assign any interest in this contract without the written consent of the other party.

**SECTION TEN
NON-WAIVER FOR MATERIAL BREACH**

The failure of either party to exercise any of its rights under this agreement for a material breach thereof shall not be deemed to be a waiver of such rights or a waiver of any such subsequent breach.

**SECTION ELEVEN
TERMINATION**

Should the Contractor fail to comply with any of the terms or conditions set forth in this contract or should the Des Moines Police Department determine in good faith that the Contractor is in any way unfit, unqualified, or unable to perform all of the services outlined in this contract, then in that event this contract may be canceled. Neither party shall be responsible, so long as they act reasonably and in good faith, for any failure of performance due to Acts of God, labor disputes, governmental authority or other circumstances clearly beyond the control of the other party.

**SECTION TWELVE
SEVERABILITY**

If any part of this agreement shall be held unenforceable, the rest of this agreement will nevertheless remain in full force and effect.

**SECTION THIRTEEN
WRITTEN NOTICE**

Communication regarding this agreement may be sent to Police Executive Research Forum at 1120 Connecticut Avenue, N.W., Suite #930, Washington, DC 20036 or Chief Dana Wingert, Des Moines Police Department, 25 East 1st St., Des Moines, IA 50309.

**SECTION FOURTEEN
GOVERNING LAW**

This agreement shall be governed by the laws of the District of Columbia (Washington, D.C.).

SECTION FIFTEEN—USE OF NAMES

Neither party will use the name of the other in any form of advertising or publicity without the express written permission of the other party.

SECTION SIXTEEN—COMPLIANCE

Contractor represents and certifies that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

SECTION SEVENTEEN—DISCRIMINATION PROHIBITED

In hiring, employment, subcontracting or consulting arrangements made possible by or resulting from this contract, there will be no unlawful discrimination against any employee, applicant for employment or contractor on account of sex, race, religion, color, national origin or ancestry, age, disability, marital status, or sexual orientation. This shall apply to all business-related activities, including but not limited to, recruitment and selection; demotion, transfer, lay-off or termination; rates of pay or other forms of compensation and selection for training. The Contractor agrees to include this provision on discriminatory practices in all appropriate subcontracts for work covered by this contract. Furthermore, Contractor agrees to consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms and women's business enterprises when developing independent contracts for work covered by this contract.

SECTION EIGHTEEN—PERSONAL SAFETY

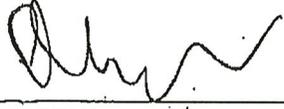
The Des Moines Police Department agrees to take reasonable measures to facilitate the health and safety of consultants, participants, and instructors during this engagement by following current guidance from the Centers for Disease Control to ensure the safety of consultants, participants, and instructors.

Des Moines Police Department:


SIGNATURE

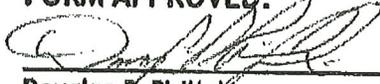
Date 6/30/2021

Police Executive Research Forum:


SIGNATURE
Chuck Wexler, Executive Director

Date 6/22/21

FORM APPROVED:


Douglas P. Philip
Assistant City Attorney