



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Shivaun Nurre

SUBJECT: INDEPENDENT POLICE AUDITOR
CONTRACT AUTHORITY

DATE: December 16, 2020

RECOMMENDATION

Approve an ordinance amending Chapter 4.04 of Title 4 of the San Jose Municipal Code to amend Sections 4.04.055, 4.04.080, and 4.04.085 and add Section 4.04.045 to grant contract authority to the Independent Police Auditor, with the same parameters as other Council appointees like the City Clerk and City Auditor, as authorized under Charter Section 809 as amended by Measure G.

OUTCOME

That the Independent Police Auditor has contractual authority in the amount of \$320,000, to be increased by the Consumer Price Index, which is consistent with the contract authority granted to other Council appointees like the City Clerk and City Auditor.

BACKGROUND

The Office of Independent Police Auditor was created in 1993 by ordinance and codified in the City Charter in 1996 under Sections 809 and 809.1, but the Charter provisions enacted in 1996 did not explicitly provide for general contract authority in the powers and duties of the Independent Police Auditor.

In December 2009, the City Council approved an ordinance that provided limited authorization to appoint or designate an alternate police auditor to assume the duties of the IPA for the limited purpose of reviewing internal affairs unit investigations of complaints in which the police auditor has a conflict of interest that warranted disqualification of the IPA. The IPA was authorized to enter into a contract for this purpose up to a maximum value of \$250,000.

In November 2020, San Jose voters passed Measure G with approximately 77% of voters approving. Among other items, Measure G amended section 809 of the City Charter stating the IPA may:

- (e) Contract with any entity consistent with the powers and duties under this Charter and subject to any limitation imposed by Council.

ANALYSIS

The recommended ordinance seeks to incorporate the new Charter provision on contracting authority into the Municipal Code and establish the parameters for such authority similar to that already afforded to other Council appointees like the City Clerk and City Auditor.

In addition, the recommended ordinance makes a number of technical changes to incorporate the IPA's contract authority including striking the \$250,000 limit for the IPA to contract with an alternate police auditor. Accordingly, in the event of a conflict, the IPA would have authority to contract with an alternate police auditor in an amount consistent with all other contracts.

CONCLUSION

This authority will allow the IPA to conduct her responsibility in a more efficient and timely manner. Without such authority, the IPA will continue with its current procedure of requesting the City Manager to be the signing authority.

EVALUATION AND FOLLOW-UP

Pursuant to Municipal Code Section 4.04.080, the City Manager shall prepare a quarterly report which describes all contracts having a value of One Hundred Thousand Dollars (\$100,000.00) (as adjusted pursuant to Section 4.04.085) or more that were entered into and executed by the City Manager, City Attorney, City Clerk and City Auditor, in the preceding calendar quarter. The report shall identify the subject matter of the contract, the person(s) or entity(ies) with whom the contract was made and the amounts, if any, payable by or to the City under each contract.

The recommended ordinance amends section 4.04.080 to include contracts entered into and executed by the IPA. Accordingly, the IPA will be included in subsequent quarterly reports from the City Manager.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the City of San José Council meeting to be held on January 5, 2021.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this item.

COST SUMMARY/IMPLICATIONS

The IPA's contractual authority will be limited to those moneys which have been appropriated and for which there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contract.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City Action.

A handwritten signature in black ink, appearing to read "Shivaun Nurre", with a stylized flourish at the end.

SHIVAUN NURRE
Independent Police Auditor

For questions, please contact Shivaun Nurre, Independent Police Auditor, at 794-6226.