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OFFICE OF THE CITY CLERK  
OAKLAND

2013 MAY 15 AM 11:08 **AGENDA REPORT**

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Sean Whent  
Interim Chief of Police

SUBJECT: Michael Glenn Investigations  
Contract Amendment

DATE: May 10, 2013

City Administrator  
Approval

Date

5/13/13

COUNCIL DISTRICT: City-Wide

### RECOMMENDATION

Staff recommends that the Council approve a resolution authorizing the City Administrator to amend the contract with Michael Glenn Investigations to complete additional investigation-related work on police misconduct claims resulting from Occupy Oakland protest incidents, increasing the budget by Twenty Thousand Dollars (\$20,000) for a total contract amount of One Hundred Twenty Thousand Dollars (\$120,000).

### EXECUTIVE SUMMARY

Since October 25, 2011, the Oakland Police Department Internal Affairs Division has received numerous misconduct complaints against members of the Oakland Police Department (OPD) as a result of Occupy Oakland protests and events. Due to the volume, sensitivity and complexity of these complaints the need existed to increase the Department's investigative capacity to ensure compliance with the California Government Code section 3304 deadline for imposing discipline.

On May 1, 2012, Judge Thelton Henderson in the case of Allen v. City of Oakland, et al., ordered the City to provide a specific plan on how it would address all outstanding internal investigations stemming from Occupy Oakland activities prior to December 31, 2011, including the completion of all investigations within the 3304 deadline. The City's plan, which was adopted by the Court on June 18, 2012 with certain modifications, included the hiring of outside investigators and law firms to complete the most high profile and complex investigations.

Michael Glenn Investigations was one of the private investigators hired to conduct investigations of police misconduct. The original contract was for \$100,000 and included the assignment of

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eight misconduct investigations. Michael Glenn Investigations was subsequently assigned an additional 18 cases for a total of 26 investigations, all of which were completed within the contract cap amount of \$100,000.

As a result of the investigations completed by Michael Glenn Investigations, multiple officers were sustained for misconduct. Therefore, it is anticipated that several of these investigations will be appealed to arbitration, in accordance with Article X (Grievance Procedures), Step 5 (Civil Service Board/Arbitration). Additional work by Michael Glenn Investigations will be necessary for all cases appealed to arbitration. Specifically, the investigator will need to review the case, prepare for the arbitration hearing with the City Attorney's Office and serve as a key witness at the hearing. Therefore, the City Administrator seeks Council's authority to increase the contract with Michael Glenn Investigations in the amount of \$20,000, for a total contract amount not to exceed \$120,000.

### **OUTCOME**

Increasing the contract amount will ensure that the investigator is able to review and evaluate arguments made by the subject officers and prepare for and testify at the hearings in the event the cases proceed to arbitration.

### **BACKGROUND / LEGISLATIVE HISTORY**

On October 25, 2011, the City removed the initial Occupy Oakland encampment from Frank Ogawa Plaza which resulted in several protests, a general strike, and a port shut down. During the course of these Occupy events, numerous misconduct complaints were filed against members of the OPD. In order to impose discipline, state law requires internal investigations of misconduct complaints to be completed within 365 days. Per the Court Order dated May 1, 2012, Judge Thelton Henderson required the City to submit a plan for completing the investigations stemming from Occupy Oakland activities, to include provisions for completion of all investigations within the California Government Code section 3304 deadline. The City's plan included the use of outside private investigators and law firms to conduct the most high profile and complex investigations.

The City conducted a competitive solicitation process (Request For Proposals) for investigative services to conduct administrative investigations of misconduct complaints stemming from Occupy Oakland activities. Five firms were selected:

- Renne Sloan Holtzman Sakai, LLP
- Burke Williams Sorenson, LLP
- DR Associates International
- Belcher Ehle Medina & Associates, Inc.
- Michael Glenn Investigations

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Oakland Municipal Code Section 2.04.020 "Authority of the City Administrator" states that the City Administrator shall have authority to bind the City by written contract or purchase order without previous specific action of the Council for purchases of supplies and services or a combination up to one hundred thousand dollars in any single transaction or term agreement and/or for the purchase of Professional Services up to one hundred thousand dollars (\$100,000.00) in any single transaction or term agreement. The City Administrator exercised that authority in response to the Court Order and the critical time sensitive and complex needs generated by the actions and events related to Occupy Oakland. Each contractor was awarded a contract with an amount not to exceed \$100,000.

The City executed five contracts to conduct administrative misconduct investigations; each contract amount was not to exceed \$100,000. The contract with Michael Glenn Investigations, dated May 21, 2012, included the assignment of eight cases for investigation. An additional 18 cases were subsequently assigned for a total of 26 cases. All assigned cases were completed within the original contract cap of \$100,000. It should be noted that the first contract amendment (Amendment 1), dated June 21, 2012, only revised the due dates of the originally assigned eight cases to comply with the Court Order issued on June 18, 2012.

### ANALYSIS

An extraordinary number of misconduct complaints were generated from Occupy Oakland protests, marches, and general strikes. Although, the City did not have the capacity to investigate many of the complaints within the Negotiated Settlement Agreement (NSA) required timelines, additional investigative capacity was necessary to ensure the investigations were completed within the State mandated deadlines. Therefore, the City hired five contractors (three private investigators and two law firms) to increase the capacity needed to complete investigations stemming from Occupy Oakland activities.

The City requires additional services from Michael Glenn Investigations, one of the private investigators hired to perform misconduct investigations. All 26 cases assigned to Michael Glenn Investigations were completed within the original contract cap of \$100,000; however, additional work will be required in the event the cases are appealed to arbitration, including preparing for the arbitration, meeting with counsel for the City, and serving as a key witness. Therefore, the City Administrator seeks Council's authority to increase Michael Glenn Investigations' contract in the amount of \$20,000, for a total contract amount not to exceed \$120,000. In addition, the contract will be extended for an additional two years, given the uncertainty and sometimes lengthy process of arbitration, expiring on May 21, 2015.

### PUBLIC OUTREACH/INTEREST

It is in the City's best interest and that of the Oakland residents to ensure that all complaints are investigated thoroughly and objectively.

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**COORDINATION**

The Budget Office and City Attorney's Office has been consulted during the preparation of the report.

**COST SUMMARY/IMPLICATIONS**

AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$120,000.00

**SOURCE OF FUNDING**

Funds for this contract shall be drawn from General Fund 1010, Organization 101120, Account 54919, Project 0000000 and Program PS02.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** Investigating citizen complaints and holding police personnel accountable for violations of the law and serious misconduct increases public confidence and improves public relations with the community, and reduces liability and risk for the City.

***Environmental:*** There are no environmental opportunities.

***Social Equity:*** Both citizens and our sworn personnel deserve to have a Police Department that provides highly professional services in ensuring the public safety of the residents of Oakland. Complaints filed against police personnel must be investigated thoroughly and timely to ensure public confidence and good relations with the community.

For questions concerning this report, please contact Acting Deputy Chief David E. Downing at (510) 238- 7710.

Respectfully submitted,



for Sean Whent  
Interim Chief of Police

Prepared by:  
John M. Lois  
Acting Lieutenant of Police  
Internal Affairs Division

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May 28, 2013

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OFFICE OF THE CITY CLERK  
OAKLAND

## OAKLAND CITY COUNCIL

  
City Attorney

2013 MAY 15 AM 11:59 RESOLUTION NO. \_\_\_\_\_ C.M.S.

RESOLUTION AMENDING THE CONTRACT WITH MICHAEL GLENN INVESTIGATIONS TO COMPLETE ADDITIONAL INVESTIGATION-RELATED WORK ON POLICE MISCONDUCT CLAIMS RESULTING FROM OCCUPY OAKLAND PROTEST INCIDENTS, BY INCREASING THE CONTRACT AMOUNT BY TWENTY THOUSAND DOLLARS (\$20,000) FOR A TOTAL CONTRACT AMOUNT OF ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000)

WHEREAS, the City has received numerous police misconduct complaints related to Occupy Oakland protest incidents which the City must complete within the timeline provided in California Government Code Section 3304 (Government Code 3304); and

WHEREAS, the Court in *Allen v. City of Oakland, et al.*, issued an order on June 18, 2012 which mandates that all outstanding internal investigations stemming from Occupy Oakland activities prior to December 31, 2011 be completed 60 days in advance of the Government Code 3304 deadline or within 120 days of the date of the order for cases in which the Government Code 3304 period is tolling; and

WHEREAS, the City lacks sufficient qualified personnel to perform the work and needs additional capacity to conduct the investigations and ensure they are completed thoroughly and within required timelines; and

WHEREAS, the City Council finds and determines that the services authorized hereunder are professional, scientific or technical in nature, are temporary, and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

WHEREAS, under the contract authority of the City Administrator pursuant to Oakland Municipal Code Section 2.04.020, and following an RFP competitive process, the City entered into a contract with Michael Glenn Investigations, for \$100,000 in May 2012 to complete administrative investigations related to Occupy Oakland police misconduct complaints in order to meet the legal and court order requirements related to these investigations; and

WHEREAS, under the existing contract Michael Glenn Investigations conducted the administrative investigations of 26 cases, several of which resulted in officers being sustained for misconduct, leading to additional work needed for preparation for arbitration, should the cases go to arbitration; and

WHEREAS, the cost of the additional work is \$20,000; and

**WHEREAS**, it is in the best interests of the City to amend this contract in order for City to achieve the most thorough and object investigation; and

**WHEREAS**, sufficient funds have been budgeted for this contract by the Oakland Police Department, Fund 1010, Organization 101120, Account 54919, Project 0000000, Program PS02; now therefore be it

**RESOLVED**: That the City Administrator is authorized to increase the budget for Michael Glenn Investigations in the amount of \$20,000 for a total contract amount of \$120,000, to prepare for arbitration, should the cases go to arbitration; and be it

**FURTHER RESOLVED**: That the City Administrator or her designee is authorized to take all actions and carry out any financial actions necessary to fulfill the intent of this Resolution and accompanying Report, including completing all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this contract for services, except for any increase in the contract amount, without returning to the City Council; and be it

**FURTHER RESOLVED**: That the City Administrator or her designee will provide regular updates to the City Council concerning changes or modifications to the contract with Michael Glenn Investigations; and be it

**FURTHER RESOLVED**: That the City Administrator or her designee shall ensure that copies of fully executed contracts and amendments are placed on file with the Office of the City Clerk; and be it

**FURTHER RESOLVED**: That the City Attorney shall review and approve, for form and legality, any and all contract amendments and modifications.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSONMCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California