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RESOLUTION No. 84462 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONTRACT TO THOMAS FRAZIER, THE COMPLIANCE DIRECTOR APPOINTED BY THE UNITED STATES FEDERAL DISTRICT COURT IN *DELPHINE ALLEN, ET AL. V. CITY OF OAKLAND*, FOR THE PERIOD OF MARCH 11, 2013 TO MARCH 10, 2014 IN THE AMOUNT OF \$722,600.00 (SEVEN HUNDRED TWENTY-TWO THOUSAND SIX HUNDRED DOLLARS) TO ASSIST THE CITY IN ACHIEVING FULL COMPLIANCE WITH THE NEGOTIATED SETTLEMENT AGREEMENT IN THE CASE OF *DELPHINE ALLEN, ET AL. V. CITY OF OAKLAND, ET AL.*, UNITED STATES DISTRICT COURT CASE NO. C00-4599 TEH

WHEREAS, in January, 2003, the City Council approved the settlement of *Delphine Allen, et al. vs. City of Oakland, et al*, which settled allegations that several individual Oakland police officers violated Plaintiffs' constitutional rights, and that the City was permissive or sanctioned said conduct; and

WHEREAS, the settlement resulted in the Negotiated Settlement Agreement ("NSA"), in which the City agreed to rewrite its police policies, revamp its training, and adopt contemporary police practices in the areas of use of force, field supervision, discipline and accountability measures; and

WHEREAS, the Oakland Police Department completed most of the policy and training requirements and many of the practice compliance obligations within the initial seven year term of the NSA, but required more time to show practice compliance, resulting in the Parties extending the NSA for two years from 2010 to 2012 under a more narrow Memorandum of Understanding ("MOU"), which was subsequently extended under the current Amended Memorandum of Understanding ("AMOU") for two years from 2012 to 2014; and

WHEREAS, on March 4, 2013, the Court has appointed Thomas Frazier as Compliance Director to assist the City in achieving full compliance under the AMOU; and

WHEREAS, the Court's March 4, 2013 order provides that Mr. Frazier's compensation shall be \$270,000.00 plus additional compensation and further provides that Mr. Frazier may hire staff upon Court approval; and

WHEREAS, the Court further directed the City and Mr. Frazier to agree on further compensation; and

WHEREAS, on April 17, 2013, the Court approved the Compliance Director's staff and budget amount not to exceed \$385,600.00, and the City and Mr. Frazier agreed upon further compensation for Mr. Frazier in an amount not to exceed \$67,000.00; and

WHEREAS, sufficient funds have been budgeted in the proposed FY 2013-15 budget for this contract in the Miscellaneous Grant Fund (2999), Project Number to be Determined to pay for this contract; and

WHEREAS, since the Court has ordered Thomas Frazier to serve full time as the Compliance Director, and therefore, the City's 20% Local and Small Business Enterprise requirements have been waived; and

WHEREAS, Oakland Municipal Code Section 2.04.051.B authorizes the City Council to dispense with the City's standard request for proposal process for award of professional services contracts upon a finding that it is in the City's best interests to do so; and

WHEREAS, the Council finds that it is the best interests of the City to waive the aforesaid requirements in light of the Court's orders appointing the Compliance Director and authorizing staff for the Compliance Director; and

WHEREAS, the City Council finds and determines that the service 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 City Administrator is authorized to award the contract with the Compliance Director, for one year, from March 11, 2013 to March 10, 2014, to perform the services ordered by the Court in its December 12, 2012 and March 4, 2013 Orders, and as provided in the Amended Memorandum of Understanding Re: Post Negotiated Settlement Agreement Terms and Conditions entered into by the Parties in this case; and be it

FURTHER RESOLVED: that the Council finds and determines, for the reasons stated above and in the City Administrator's report accompanying this Resolution, and pursuant to Oakland Municipal Code, Section 2.04.051(B), that it is in the best interests of the City to dispense with the City's customary RFP/RFQ process for the Compliance Director contract, and hereby waives these requirements; and be it

FURTHER RESOLVED: that the City Administrator is authorized to appropriate a total of \$722,600.00 from the General Fund (1010), Office of Inspector General Organization (101130), Miscellaneous Contracts Account (54919), and Program (PS01) to pay for the services under this contract, subject to deduction of the \$270,000 previously deposited in the Court registry and any other sums that have already been deposited in the Court registry; and be it

FURTHER RESOLVED: that the City Administrator or her designee is authorized to 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 Attorney shall review and approve this agreement as to form and legality and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 18 2013

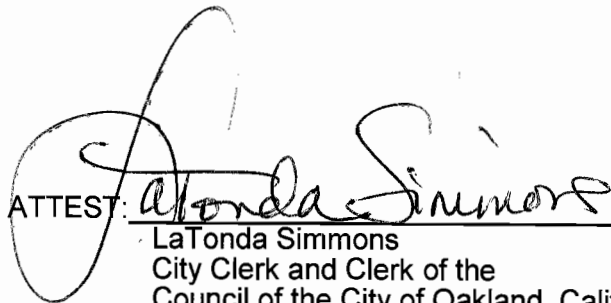
BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND PRESIDENT KERNIGHAN -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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