



Legislation Text

File #: 003424-2, **Version:** 1

Subject: Settlement of Delphine Allen

From: Office of the City Attorney

Recommendation: Adopt a Resolution authorizing the City Manager, on behalf of the City of Oakland, to enter into a Professional Services Agreement with Relman & Associates in an amount not to exceed Three Million, Six Hundred Thousand Dollars (\$3,600,000) for the period of July 15, 2003 through May 31, 2008 to perform services as an Independent Monitor as provided for in the Settlement of Delphine Allen, et al. V. City of Oakland, et al.

USDC Case No. C00-4599 (TEH)

CITY OF OAKLAND

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AGENDA REPORT

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TO: Office of the City Manager X-1 2 P; 6

ATTN: Robert C. Bobb

FROM: Oakland Police Department

DATE: July 15, 2003

RE: A report and proposed resolution authorizing the City Manager, on behalf of the City of Oakland, to enter into a Professional Services Agreement with Reiman & Associates in an amount not to exceed three million, five hundred seventy-six thousand eight hundred ninety-eight dollars and eighty-two cents (\$3,576,898.82) for the period of July 15, 2003 to July 15, 2008 to perform services as an independent monitor as provided for in the Settlement Agreement in Delphine Allen, et al. v. City of Oakland, et al., U.S.D.C. case no. COO-4599 (TEH)

SUMMARY

At its April 8, 2003 meeting, the City Council approved the Riders' Settlement Agreement Steering Committee's recommendation of Reiman & Associates as the City's choice for Independent Monitor of the Settlement Agreement. City Council directed staff to present the draft contract to the Public Safety Committee for their review.

The Office of the City Attorney has prepared a draft Professional Services Agreement (Attachment A) for Relman & Associates to provide such Independent Monitor services.

In preparing this report, Police Department staff researched independent monitor contract costs from nine (9) police agencies that have recently completed, or are currently operating under, consent decrees. A chart (Attachment B) is provided to compare the costs of those monitoring services to the costs proposed by Reiman.

FISCAL IMPACT

The draft contract for monitor services with Relman & Associates specifies a maximum cost of

\$3,576,898.82 over a five (5) year period. This cost is within the Settlement Agreement's specified maximum amount of "four million dollars (\$4,000,000.00) for the five year implementation of the Settlement Agreement." I

The monitor's fees are included in the budget proposals submitted by the Office of the City Manager for FY 2003-04 and FY 2004-05. The funding for the fees is budgeted in the General Purpose Fund, Fund Number IOIO, Organization Code IOI130, Account Number 54919. The total amount for FY 2003-04 and FY 2004-05 is one million five hundred and eighty thousand dollars (\$1,580,000.00). Based on a careful review the monitor's responsibilities, their tentative arrival date, and the projected billing/payment process, the funding was divided equally at seven

Settlement Agreement, X111 A 2., page 43, lines 7-8.

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Oakland Police Department
Independent Monitor Selection Page 2

hundred and ninety thousand dollars (\$790,000.00) for each fiscal year. The \$790,000.00 budgeted for FY 2003 - 04 is sufficient to cover contract costs during the period.

All costs and fees for the monitor not covered by FY 2003-05 will be appropriately reflected in the FY 2005-07 and FY 2007-09 budget proposals.

BACKGROUND

Monitor Selection

The Police Department and Office of the City Attorney conducted a selection process to identify an independent monitor who best met the needs of the City in implementing and complying with the terms of the Settlement Agreement. The Riders' Settlement Agreement Steering Committee, consisting of the City Manager, Chief of Police, and staff from the Office of the City Attorney, evaluated the candidates and recommended that Relman & Associates' monitoring team be the City's selection as Independent Monitor. The City Council approved that recommendation at its April 8, 2003 meeting.

KEY ISSUES AND IMPACTS

Cost Comparisons

Police Department staff contacted nine (9) police agencies operating under consent decrees, which are similar to our Settlement Agreement, to compare monitoring costs. The agencies were:

1. Cincinnati Police Department, Ohio
2. Washington D.C. Metropolitan Police Department, District of Columbia
3. Los Angeles Police Department, California

4. Riverside Police Department, California
5. Wallkill Police Department, New York
6. Montgomery County Police Department, Maryland
7. New Jersey State Police Department, New Jersey
8. Pittsburgh Police Department, Pennsylvania
9. Steubenville Police Department, Ohio

All nine (9) agencies responded with information. The scope and cost of monitor services from these agencies were evaluated and compared to the proposal submitted by Relman & Associates. A chart (Attachment B) listing the agencies and comparing the scope and cost of their monitor services is included with this report. Composite hourly cost for monitor services in other agencies with similar monitoring contracts ranged from a low of \$77.00 per hour to a high of \$289.00 per hour. Relman & Associate's composite hourly cost 2 of \$248.00 per hour was the fourth lowest of comparable agencies researched.

' Composite hourly cost is calculated by dividing the projected 5-year cost (professional services plus expenses plus administrative overhead) by the total monitor team hours worked.

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Oakland Police Department Independent Monitor Selection Page 3

On April 28, 2003, the Chief of Police discussed with Relman & Associates what concessions, if any, could be negotiated in their bid to provide monitor services. Relman responded that their hourly rate is already substantially reduced and is in line with hourly rates charged for monitor services in other cities. The Police Department's research corroborates this assertion. Relman further stated their commitment to controlling travel expenses by utilizing discounted airfares and government hotel and rental car rates where available.

Background Check

The sensitivity and confidentiality of the information reviewed by a monitor necessitates successful completion of a background investigation. Background investigations were conducted on Relman & Associates' team members and have been successfully completed.

SUSTAINABLE OPPORTUNITIES

Economic - The Independent Monitor fulfills an important function in the implementation of the reform measures contained in the Settlement Agreement. These reform measures are designed to prevent, reduce, and mitigate losses resulting from incidents of alleged police misconduct. Other cities and counties that have successfully implemented consent decrees similar to our Settlement Agreement have reported a reduction in liability pay-outs resulting from alleged police misconduct cases.

Environmental - There are no environmental opportunities associated with this report.

Social Equity - The development and implementation of policies and procedures based on a nation-wide review of best-practices ensures the delivery of professional police services with the highest regard for the rights and dignity of all persons.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior citizen access issues associated with this report.

RECOMMENDATION

Recommend approval of the proposed resolution.

Respectfully submitted,

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Chief of Police

Attachments A: Draft Professional Services contract Prepared by: Douglas E. Anderson
13: Monitor Cost Comparison chart Lieutenant of Police
Office of Inspector General

APPROVED FOR FORWARDING TO
THE PUBLIC SAFETY COMMITTEE:

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]MCE OAKLAND CITY COUNCIL
City Attorney

13-SOLUTION No. C. M.S.
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RESOLUTION AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY OF OAKLAND, TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH RELMAN & ASSOCIATES IN AN AMOUNT NOT TO EXCEED THREE MILLION, FIVE HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS AND EIGHTY-TWO CENTS (\$3,576,898.82) FOR THE PERIOD OF JULY 15, 2003 TO JULY 15, 2008 TO PERFORM SERVICES AS AN INDEPENDENT MONITOR AS PROVIDED FOR IN THE SETTLEMENT AGREEMENT IN DELPHINE ALLEN, et A v. CITY OF OAKLAND, et al, U.S.D.C. CASE NO. COO-4599 (TEH)

WHEREAS, the City Council finds that this contract is for services of a professional nature: and

WHEREAS, the City Council finds that services under the contract will be temporary: and

WHEREAS, the Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service: and

WHEREAS, contracts requiring professional or specialized services are exempt from competitive bidding pursuant to Chapter 2.04 of the Oakland Municipal Code; and

WHEREAS, at its April 8, 2003) meeting, the City Council approved the Riders' Settlement Agreement Steering Committee's recommendation of Relman & Associates as the City's choice for Independent Monitor of the Settlement Agreement in Delphine Allen. et al v. City of Oakland. et al, U.S.D.C. Case No. COO-4599 (TEH) ("Agreement"),- and

WHEREAS, the Office of the City Attorney has prepared a draft Professional Services Agreement (Attachment A) for Relman & Associates to provide independent monitor services: and

WHEREAS. the draft contract for monitor services with Relman & Associates specifies a maximum cost of \$3,576,898.82 over a five (5) year period; and

WHEREAS, the cost of the draft contract with Relinan & Associates is within the Settlement Agreement's specified maximum amount of four million dollars (\$4,000,000) for the five year implementation of the Settlement Agreement: and

WHEREAS, the Police Department has included the monitor's fees in the budget proposals submitted to the Office of the City Manager for FY 03-04 and FY 04-05: now, therefore, be it
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JUL 15 2003

Professional Services Agreement
ReInian & Associates Page 2

RESOLVED: That the City Council hereby authorizes the City Manager, on behalf of the City of Oakland, to negotiate and enter into a professional services agreement with Relman & Associates in an amount not to exceed three million five hundred seventy-six thousand eight hundred ninety-eight dollars and eighty-two cents (\$3,576,898.82) for independent monitor services; and be it

FURTHERRESOLVED: That the City Council hereby authorizes the City Manager to execute any further documents necessary to implement this resolution; and be it

FURTHER RESOLVED: That the City Manager is authorized to modify, extend or amend, the Agreement provided that no additional funds will be allocated without prior Council approval; and be it

FURTHER RESOLVED: That the Agreement shall be reviewed by the City Attorney as to form and legality and a copy placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, 20

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, CLAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California

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PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF OAKLAND
AND RELMAN & ASSOCIATES

Whereas, the City of Oakland ("City") desires to enter into this agreement with Reiman & Associates to provide services as a court appointed monitor to oversee the implementation of the settlement agreement in Allen, et al., v. City of Oakland, et al., U.S.D.C. Case No. COO-4599 TEH ("Settlement Agreement"); and

Whereas, Reiman was mutually selected by the City and Plaintiffs in the above litigation as the agreed upon monitor following a lengthy Request for Proposal ("RFP") process; and

Whereas, the United States District Court for the Northern District of California has continuing jurisdiction of this action and has approved the selection of Reiman as the monitor.

Now therefore the parties to this agreement covenant as follows:

1) Parties and Effective Date

This Agreement is made and entered into as of July 15, 2003, between the City of Oakland, a municipal corporation, ("City") One Frank H. Ogawa Plaza, Oakland, California 94612 and Relman & Associates ("Contractor"). Reiman's Independent Monitoring Team, (hereinafter referred to as "IMT") shall be comprised of the following members; Kelli M. Evans, Esq., Christy E. Lopez, Esq., Charles Gruber, and Rachel M. Burgess.

2) Scope of Services

Reiman agrees to perform the services required to monitor the Settlement Agreement, including those specified in Exhibit A attached to this agreement and incorporated herein by reference.

3) Method of Performing Services

Except as provided in the Settlement Agreement, Reiman will determine the method, details and means of performing the services described in Exhibit A.

4) Time of Performance

Reiman's services shall begin on July, 15, 2003, and shall be completed by July 15, 2008 unless extended by the Court. The extension of the Monitor beyond five years shall be allowed only if the Court determines that it is reasonably necessary in order for the Monitor to fulfill his/her duties pursuant to the Settlement Agreement. If the monitorin

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period is extended beyond five years, Reiman will require a separate agreement setting forth the nature of the services to be provided and the amount and manner in which the City vAl pay for such services. Under no circumstances shall Reiman's services extend beyond January 22, 2010.

5) Compensation and Method of Paymen

Reiman will be paid for performance of the entire scope of services an amount not to exceed \$3,576,898.82, including all agreed expenses as set forth in Exhibit B. Monthly payments shall be made to Reiman upon submission and approval of billing invoices. The invoices shall include the billing amount and a brief description of the services rendered. Except for those in dispute, all payments shall be due and payable upon receipt of an invoice. It is agreed that all payments made later than 30 days from receipt of an invoice shall be considered overdue payments. Overdue payments shall include an interest payment calculated as provided for by State of California prompt payment law codified in the Public Contract Code 20104.50, et seq. A breakdown of the costs is set forth more fully as Exhibit B.

6) Monitoring Team

Reiman shall appoint an IMT, comprised of employees and subcontractors, to perform the scope of services required hereunder for the duration of the Agreement (hereinafter referred to as "Team"), as follows:
KOH Evans, Esq., Christy Lopez, Esq., Rachel Burgess, and Charles Gruber.
For the purposes of all communications and liaisons between the IMT and City, Reiman appoints Kelli Evans as the Primary Monitor. City shall first communicate with Kelli Evans unless she is not available, in which case City shall then communicate with Christy Lopez.

Reiman shall not remove IMT members during the term of this Agreement unless the employment and/or subcontractor relationship between Reiman and employee or subcontractor is terminated, in which case Reiman shall provide City with IO days notice of release of IMT members due to such termination, and replace members as provided below.

7) Addition & Replacement of IMT Members

Reiman shall obtain the written approval of the City, which shall not be unreasonably withheld, if it wishes to appoint new members to or to replace members of the IMT. Reiman shall provide to City a copy of the proposed member's resume and a completed background questionnaire at least 30 business days prior to appointment. City shall respond within 30 business days of receipt of the resume and completed background questionnaire with a written approval or disapproval. City shall provide reasons, in writing, for disapproval of a proposed candidate. If

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City fails to respond within the time limit, Reiman's proposed candidate shall be deemed approved.

City shall not be liable for any costs associated with the replacement of any members of the IMT, including costs necessary to bring new members of the IMT to current status with the project.

8) Independent Contractor

It is expressly agreed that in the performance of the services necessary to carry out this agreement, Reiman shall be, and is, an independent contractor, and is not an employee of City. Except as provided for in the Settlement Agreement and specified in Paragraph 1 above, Reiman has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Reiman in the performance of Reiman's services hereunder. Reiman shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Reiman's own acts and those of Reiman's subordinates and employees. It is further expressly understood by the parties to this agreement that at all times Reiman is an agent of the United States District Court and as such reports to and takes direction from said court.

Reiman may associate such additional persons or entities to assist in developing databases and scientifically valid review methodologies as are reasonably necessary to perform the monitoring tasks specified in this Agreement. Any additional persons or entities associated by Reiman shall possess the following attributes: a reputation for integrity, even-handedness and independence; an absence of bias, including any appearance of bias, for or against the plaintiffs, the

City, the Department, or their members or employees; and no personal involvement in the last five (5) years, whether paid or unpaid, with a claim or lawsuit against the City or the Department or any of their officers, agents or employees unless waived by the parties, which waiver shall not be unreasonably withheld.

Reiman shall notify the City and the Court if and when such additional persons or entities are selected for association by Reiman. The notice shall identify the person or entity to be associated and the monitoring task to be performed, and, if a waiver is being requested, the notice shall indicate if the person had any such involvement in the last five (5) years, whether paid or unpaid, with a claim or lawsuit against the City or the Department, or any of their members, agents, or employees.

9) Contractor's Qualifications

Reiman represents that it has the qualifications and skills necessary to perform the services under this agreement in a competent and professional manner without the advice or direction of City. This means Reiman is able to fulfill the requirements of this

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agreement. Failure to perform all of the services required under this agreement will constitute a material breach of the agreement. Subject to the provisions of the Settlement Agreement and requirements of the Court and the City, Reiman has complete and sole discretion for the manner in which the work under this agreement is performed.

IO) Payment of Income Taxes

Reiman is responsible for paying, when due, all applicable taxes, including income taxes, and estimated income taxes, incurred as a result of the compensation paid by City to Reiman for services under this agreement. On request, Reiman will provide City with certification by Reiman's accountant that timely payment of taxes on income received from City has been made. Reiman agrees to indemnify City for any claims, costs, losses, fees, penalties, interest or damages suffered by City resulting from Reiman's failure to comply with this provision.

1 1) Payment of Expenses

Reiman will be responsible for all expenses incurred in performing services under this agreement not set forth in Exhibit B.

12) Non-Exclusive Relationship

Reiman may perform services for, and contract with, as many additional clients, persons or companies as Reiman, in its sole discretion, sees fit.

13) Tools, Materials and Equipment

Reiman will supply all tools, materials and equipment required to perform the services under this agreement except those specified in Exhibit A. In addition, the City shall provide Reiman and any staff of Reiman with office space, which may be in the Police Department or within other City offices, and with reasonable office support such as computers, internet and email access, telephones, access to fax and photocopying, etc. The City and OPID shall bear all reasonable fees and costs for Reiman.

14) Cooperation of City and OPID

City and CPD agree to comply in good faith with all reasonable requests of Reiman necessary to the performance of Reiman's duties under this agreement. If the Monitor reports that the duties and the responsibilities of the Monitor, as specified in this Agreement, cannot be carried out because of lack of cooperation, failure to provide appropriate data and documents otherwise called for in this Agreement, lack of timely response or other forms of unwarranted delays from OPID or the City, the Court may impose such remedies as it deems just and necessary.

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15) Extra Work

Reiman will do no extra work under this agreement, including providing technical assistance beyond the scope of the Settlement Agreement, without first receiving prior written authorization from City. Should OPID or the City request technical assistance on matters that are beyond the scope of the Settlement Agreement, Reiman will provide such assistance if appropriate, but because such services are not included in the Scope of Services or Budget for this agreement, Reiman will require a separate agreement setting forth the nature of the services and the amount and manner in which the City will pay for such services.

16) Proprietary or Confidential Information of City

Reiman understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Reiman may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Reiman agrees that all information disclosed by City to Reiman shall be held in confidence and used only in and as required by the performance of the Agreement except as required by Reiman in the performance of its duties as set forth in the Settlement Agreement and Exhibit A. Reiman shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

17) Proprietary or Confidential Information of Reiman

The City and OPID understand and agree that, in the performance of the work or

services under this Agreement or in contemplation thereof, the City and OPID may have access to private or confidential information which may be owned or controlled by Reiman and that such information may contain proprietary or confidential details, the disclosure of which to third parties may not be authorized by Reiman. The City and OPID agree that all information disclosed by Reiman to the City and OPID shall be held in confidence and used only as required by the City or OPID in the performance of duties as set forth in the Settlement Agreement. OPID and the City shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

18) City's Right to Use of Reiman's Work & Software License

The City shall have right to use, distribute, copy, disseminate, publish or otherwise utilize, without restriction or costs, all reports, documents, information, compliance analyses, studies, notes, raw review data, audit procedures, tools and forms originated, generated and or prepared by Reiman or its subcontractors in the performance of this Agreement.

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Reiman further agrees to secure an option from any software provider/developer it may use, to be exercised upon expiration of this Agreement, for City i) to purchase a license or licenses for any audit software acquired and/or developed by Reiman or its subcontractors, and ii) to modify said software in order to interface it with OPID's PIMS system. All costs for the City's software options, license(s), modifications and post-Agreement maintenance of the software shall be borne by the City.

19) Termination on Notice

This agreement may only be terminated as set forth in the Settlement Agreement, a copy of which is attached as Exhibit C.

20) Agents/Brokers

Reiman warrants that, Reiman has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Reiman working solely for Reiman, to solicit or secure this agreement, and that Reiman has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this agreement.

21) Conflict of Interest Rules.

a) Reiman warrants and represents, to the best of its present knowledge, that no "Public Official" of the City who has participated in "Making" or in any way used his or her official position to influence the making of this Agreement has a "Financial

Interest' in this Agreement or the program funded under this Agreement.

b) For purposes of this paragraph, a "Public Official" has a "Financial Interest" if the Agreement or the program would foreseeably have a material financial effect, at the time of the official's participation, on (a) the official, (b) the official's spouse or dependent children, (c) any for-profit business entity in which the official has a direct or indirect investment worth \$1,000 or more, (d) any real property in which the official has a direct or indirect interest worth \$1,000 or more, (e) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (f) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$250 the previous year.

c) Also, Reiman warrants and represents, to the best of its present knowledge, that any public official of the City who is a noncompensated director or officer of Reiman has not participated in the making of this Agreement or in the decision to fund the program from CDBG funds.

d) For purposes of this subsection, "Public Official" means any City Councilmember, elected or appointed official, member, officer, employee or consultant of the City, and specifically includes any director of a Community

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Development District Board that makes a recommendation on the funding for this Agreement.

22) Conflict of Interest: Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement, Reiman understands and agrees that, if the City reasonably determines that Reiman has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may petition the court for relief as provided for in the settlement agreement.

23) Conflict of Interest: Subcontracts

Reiman shall incorporate, or cause to be incorporated, in all contracts and subcontracts for work to be performed under this Agreement a provision prohibiting any conflict of interest described above in this section.

24) Conflict of Interest: No Waiver

Nothing herein is intended to nor does waive any applicable federal, state or local conflict of interest law or regulation.

25) Equal Employment Practices

a) Reiman shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state, or local laws.

b) During the performance of this agreement, Reiman agrees as follows:

c) Reiman and Reiman's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of gender, sexual preference, race, creed, color, national origin, Acquired-immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or physical disability. Such nondiscriminatory action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

d) Reiman and Reiman's subcontractors shall state in all solicitations or advertisements for persons to provide services under this Agreement, that all qualified applicants will receive consideration for employment without regard to gender, sexual preference, race, creed, color, national origin, Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or physical disability.

e) If applicable, Reiman will send to each labor union or representative of workers with whom Reiman has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Reiman

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commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

26) Affirmative Action

a) Reiman shall make good faith efforts to subcontract with certified LBE/SLBE Local Business Enterprise/Small Local Business Enterprise subcontractors. Additionally, if possible, opportunities for training and employment shall be given to residents of the City of Oakland.

b) Reiman shall submit information on forms supplied by the City concerning the ownership and workforce composition of Reiman's firm as well as its subcontractors and suppliers performing work pursuant to this Agreement, as reasonably requested by the City.

c) All affirmative action efforts of Reiman are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by the contractor to hire and/or contract with the individual or entity in question.

d) In the recruitment of subcontractors who will perform City contracts, the City of

Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segment of Oakland's business community. The City Manager will track the City's MBEIWBE utilization to ensure the absence of unlawful discrimination on the basis of race, ethnicity, national origin, gender, religion, sexual orientation, or disability, and make reports quarterly or as requested, to the City.

e) In the use of such recruitment, hiring and retention of employees or subcontractors who will perform City contracts, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

27) Living Wage Requirements

a) This Agreement is subject to the Living Wage Ordinance of the Oakland Municipal Code and its implementing regulations. The Ordinance requires among other things, submission of the Declaration of Compliance attached and incorporated herein and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, that Reiman provide the following to its employees who perform services under or related to this Agreement:

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b) Minimum compensation - Effective July 1, 2003, said employees shall be paid an initial hourly wage rate of \$9.58 with health benefits or \$11.02 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. The city shall notify Reiman in May of each year of the new rates.

c) Health benefits - Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.25 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.

d) Compensated days off - Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten

uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.

e) Federal Earned Income Credit (EIC) - Reiman shall inform said employees who earn less than \$12.00 per hour that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.

f) Reiman shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include information set forth in sections a through d above.

g) Reiman shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.

h) Reiman shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Reiman shall include the same or similar provisions as those set forth in sections a through g above in its subcontracts. Copies of said subcontracts shall be submitted to the Office of Contract Compliance.

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28) Equal Benefits

This. Agreement is subject to the Equal Benefits Ordinance, Municipal Code, Chapter 2.32 requiring contractors on city contracts of \$25,000 or more to provide employee benefits to their employees with domestic partners equivalent to those provided to their employees with spouses. The ordinance covers all benefits that an employer offers its employees and their spouses, which include but are not limited to, health benefits, bereavement leave, family leave, retirement benefits, travel and other benefits. Contractor and vendors that do not have employees or do not provide employees with spousal benefits are not required to change their benefits policies. All Contractors shall execute an "Equal Benefits-Declaration of Nondiscrimination" which shall be incorporated herein and attached as Schedule C-2 to this Agreement.

29) Audit and Inspections

RELMAN shall permit, CITY and its authorized representatives to have reasonable access to RELMAN'S books, records, accounts and work product for expenditures billed to the City under this Agreement, for the purpose of making an audit or examination for a period of four (4) years following the fiscal year of the last expenditure under this Agreement, providing the City pays for storage of the

materials with a vendor of the City's choosing. CITY shall not have the right to audit or examine any books, records, accounts or work product of RELMAN not related to expenditures billed to the City under this Agreement. RELMAN shall permit and facilitate observation and inspection of the work and records for expenditures billed to the CITY at RELMAN'S principal office and job site by CITY, its employees, agents, public authorities, and other designees, during reasonable business hours. RELMAN acknowledges that all records documenting expenditures billed to the CITY are subject to public review.

30) Insurance

Reiman shall procure and keep in force the insurance requirements specified in Schedule Q (attached hereto and incorporated herein by reference) for the term of this contract.

31) Indemnification

Reiman agrees to protect, defend (with counsel acceptable to the City), indemnify and hold harmless City, its councilmembers, officers employees and agents ("Indemnitees") from any and all actions, causes of action, claims, losses expenses (including reasonable attorneys' fees and costs) or liability (collectively called "Actions") on account of damage of property or injury to or death of persons arising out of or resulting in any way from the negligence of Reiman, its officers, employees, subconsultants or agents in the performance of this Agreement.

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32) Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

33) Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the agreement.

34) Conflict of Interest

The following protections against conflict of interest will be upheld:

a) Reiman certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this agreement or in any benefit arising therefrom.

b) Reiman certifies that no member, officer, or employee of City or its designees or agents, and no other public official of City who exercises any functions or responsibilities with respect to the programs or projects covered by this agreement, shall have any interest, direct or indirect in this agreement, or in its proceeds during his/her tenure or for one year thereafter.

c) Reiman shall incorporate, or cause to be incorporated, in all subagreements for work to be performed under this agreement a provision prohibiting such interests pursuant to the purposes of this section.

d) Reiman shall immediately notify City of any real or possible conflict of interest between work performed for City and for other clients served by Reiman.

35) Assignment

Reiman shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

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36) Business Tax Certificate

Reiman shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this agreement.

37) Governing La

This agreement shall be governed by the laws of the State of California.

38) Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, by prepaid U.S. certified or registered postage, addressed to recipient as follows:

City:

Gregory A. Lowe Charles Vase
Captain of Police Oakland City Attorney's Office

Office of Inspector General One Frank H. Ogawa Plaza
Oakland Police Department Oakland, CA 94612
455 7th Street, 8th Floor cevo(cDoaklandcitVaftomeV.org
Oakland, CA 94607 Phone: 510.238.2961
GLowe(cDoaklandnet.com
Phone: 510.637.0223
Fax: 510.465.3405

Reiman:

Kelli M. Evans, Esq.
Christy E. Lopez, Esq.
Reiman & Associates
1350 Connecticut Avenue NW Suite 304
Washington, DC 20036-1738
kevans(ci_)relmanlaw.com
clopez(a)relmanlaw.com
Phone: 202.728.1888

39) Entire Agreement of the Parties

This agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Reiman for City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not

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contained in this agreement, and that no other agreement, statement or promise not contained in this agreement will be valid or binding, except that this agreement is subordinate to and shall be read and interpreted in accord with the Settlement Agreement in Allen, et al. v. City of Oakland, et al., U.S.D.C. Case No. COO-4599 TEH.

40) Modification

Any modification of this agreement will be effective only if it is in a writing signed by the party to be charged.

41) Partial Invalidity

If any provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

42) Approval

If the terms of this agreement are acceptable to Contractor and City, then sign and date below.

City of Oakland, Reiman & Associates
a municipal corporation

(Office of City Manager) Title:

(Date) (Date)

(Department Head) Business License Number

(Date)

Resolution Number

Approved as to form and legality:

(City Attorney's Office Signature)

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CITY OF OAKLAND
DECLARATION OF COMPLIANCE
Living Wage Ordinance

The Oakland Municipal Code Chapter XX provides that all employers (except where specifically exempted) under contracts for the furnishing of services to or for the City and that involve an expenditure equal to or greater than \$25,000 and certain recipients of City financial assistance that involve receipt of financial assistance equal to or greater than \$1 00,000 shall comply with all provisions of this Ordinance.

The contractor or city financial assistance recipient (CFAR) further agrees:

(a) To pay employees a wage no less than the minimum initial compensation of \$9.58 per hour with health benefits, as described in Section 3 C, or otherwise \$11.02 per hour, and to provide for the annual increase pursuant to Section 3;

(b) To provide at least twelve compensated days off per year for sick leave,

vacation or personal necessity at the employee's request, and at least ten additional days per year of uncompensated time off pursuant to Section 3;

(c) To inform employees making less than \$12 per hour of their possible right to the federal Earned Income Credit (E(C) and make available the forms required to secure advance EIC payments from the employer pursuant to Section 5;

(d) To permit reasonable access to work sites for authorized City representatives to review records documenting that subcontractors performing work under this Agreement have been compensated in compliance with the terms of the Living Wage Ordinance. On request, Relman will provide City with certification by Relman's accountant that employees performing work under this agreement have been compensated in compliance with the terms of the Living Wage Ordinance;

(e) Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing.

The undersigned authorized representative hereby obligates the proposer to the above stated conditions under penalty of perjury.

Company Name Signature of Authorized Representative

Address Phone Type or Print Name and Title

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Date Bid Number Type of Service
FOR CITY USE ONLY
Determination: Bidder is Exempt _Not Exempt Date
Department Representative

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Schedule Q

INSURANCE REQUIREMENTS

PROFESSIONAL AND SPECIALIZED SERVICES AGREEMENTS

a. General Liability, Automobile, Worker's Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

i. Commercial General Liability insurance, including but not limited to, Bodily Injury, Broad Form Property Damage, Contractual Liability and it necessary, Products and Completed Operations or Owners and Contractor Protective Liability. The policy shall contain a severability of interest clause or cross liability clause or the equivalent thereof.

A. Coverage afforded on behalf of the City shall be primary insurance and any other insurance available to the City under any other policies shall be excess insurance (over the insurance required by this Agreement).

B. Limits of liability shall include the following:

Bodily Injury - \$1,000,000
Property Damage - \$1,000,000
Or, Combined Single Limit (C.S.L) for Bodily Injury and Property Damage - \$2,000,000

C. If the policy is a "claim made" type policy, the following should be included as endorsements:

- 1 The retroactive date shall be the effective date of this Agreement or a prior date.
- 2) The extended reporting or discovery period shall not be less than thirty-six (36) months.

ii. Automobile Liability insurance, including all owned, non-owned and hired automobiles used by the Contractor or its agents in the performance of this Agreement shall have the following minimum limits for Bodily Injury and Property Damage - \$1,000,000 Combined Single Limit.

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iii. Worker's Compensation insurance as required by the laws of the State of

California. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

iv. Professional Liability/errors and omissions insurance in the amount of \$ 2,000,000.00.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

I. Additional Insured: Contractor shall name the City of Oakland, its Councilmembers, directors, officers, agents and employees as additional insureds in its Comprehensive Commercial General Liability and Automobile Liability policies. If Contractor submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form (or more recent) and/or CA 20 48 -Designated Insured Form (for business auto insurance). A STATEMENT OF ADDITIONAL INSURED ENDORSEMENT ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF THE ADDITIONAL INSURED REQUIREMENT.

ii. Cancellation Notice: 30-day prior written notice of cancellation, termination or material change in coverage; and

iii. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and

iv. Insurer shall carry a Best Rating of B+ or greater.

C. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

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d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the City of Oakland, Risk Management Division as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

9. Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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EXHIBIT A

SCOPE OF SERVICES

The following Scope of Services sets forth the Independent Monitoring Team's (hereinafter "IMT") duties pursuant to the Professional Services Agreement (PSA) with the City of Oakland (hereinafter "City") and its duties pursuant to the Settlement Agreement. These duties will be performed by the Relman & Associates IMT, which is comprised of Rachel M. Burgess, Charles Gruber, Kelli M. Evans, Esq., and Christy E. Lopez, Esq.

The Primary Monitor shall be Kelli M. Evans. In the event of Ms. Evans' absence, Christy E. Lopez shall be the point-of-contact.

The IMT shall monitor whether all elements of the Settlement Agreement are being developed and implemented in an effective and sustainable manner in accordance with the provisions and schedules contained within the Settlement Agreement.

In the event the Monitor reports that the duties and the responsibilities of the Monitor, as specified in this Agreement, cannot be carried out because of lack of cooperation, failure to provide appropriate data and documents otherwise called for in this Agreement, lack of timely response or other forms of unwarranted delays from OPD or the City, the Court may impose such remedies as it deems just and necessary.

In accordance with the provisions of the Settlement Agreement, the IMT will assign particular members of the IMT to the various areas covered by the Settlement Agreement.

The IMT will work with the City's and the Department's designees to coordinate visits, on-site records review, and interviews. While the IMT will conduct some unannounced monitoring activities, it intends primarily to conduct regularly scheduled monitoring visits in order to minimize disruption of OPD activities. The IMT will

establish regular office hours on-site in Oakland in space provided by the City and the

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Department. In addition to being available during the regular office hours, IMT members will be accessible to stakeholders, including the City, Department, the Oakland Police Officers' Association, other relevant bargaining units, the community, and the plaintiffs' counsel by telephone and e-mail. Both on-site and off-site monitoring activities shall be prioritized as detailed in "Attachment A." In order to ensure OPD's compliance with the provisions of the Settlement Agreement, the IMT will use a two-tiered monitoring process to report on the Department's implementation and compliance with the Settlement Agreement. Prior to beginning the auditing process, Relman & Associates will develop the audit criteria, with input from the City and the Plaintiff s Attorneys. Once the audit criteria are developed and approved, first, the fMT will determine whether the Department has created the policies, plans, and procedures required by the Settlement Agreement. Next, it will assess whether the required policies, plans, and procedures are being implemented in accordance with the Settlement Agreement. As part of the assessment, the FMT shall conduct original audits, reviews and evaluations of the areas covered in the Settlement Agreement, including the following:

a OPD policies and procedures related to implementation of the Settlement Agreement, to ensure that the policies and procedures are consistent with both the purposes of the Settlement Agreement and, as reasonably practicable, the best practices in law enforcement.

0 Completed and pending internal affairs proceedings and files except investigator[s] notes while the investigation is open.

0 Policies and procedures used by OPI) for Internal Affairs misconduct investigations, including a review of an appropriate sample of closed IA cases; assess and evaluate the quality and timeliness of the investigations; recommend reopening of investigations that the IMT determines to be incomplete; recommend additional measures that should be taken with respect to future investigations in

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order to satisfy the Settlement Agreement; and review and evaluate disciplinary actions or other interventions taken as a result of misconduct investigations.

0 Quality and timeliness, from appropriate samples, of OPD use of force incident reports and use of force (K-4) investigations; review and evaluation of actions of OPD's Use of Force (K-4) Board and Firearms-Discharge Board of Review (K-3); and review and evaluation of disciplinary actions or other interventions taken as a result of use of force investigations or K-3 and K-4 Board reviews. I

0 Implementation of provisions of the Settlement Agreement related to OPD training, including changes to the FTO program.

* OPD's development and implementation of a Personnel Information

Management System (PIMS) as required by the Settlement Agreement, including any supervisory action taken in response to analyses from such a system.

- City/OPD's Performance Appraisal System
- Compliance with provisions in the Settlement Agreement relating to command, management, and supervisory duties.

0 Other reviews as deemed relevant, such as sampling cases developed from the directives targeting specific geographic areas, to ensure that OPD enforcement activities fully comply with all applicable Department procedures and federal and state law.

When appropriate, the reviews and evaluations shall include, at a minimum, annual audits of stratified random samples.

The IMT shall also conduct secondary audits of all audits required of OPD in Section XIV B 1. - 6. of the Settlement Agreement. In performing its duties, the IMT will use a methodology generally accepted in this field and consistent with best practices, with 3

some refinements reflecting the particular circumstances of the City and Department. All original and secondary audits, reviews, and evaluations shall be performed consistent with best practices in auditing.

The IMT and/or sub-consultants/contractors shall develop specific methodology for verifying compliance with the Settlement Agreement. Guided by the language of the Settlement Agreement, the IMT and/or sub-consultants/contractors shall develop a written list of criteria, procedures, frequency, and methodology to measure compliance with the various provisions of the Settlement Agreement and, where appropriate, determine with specific provisions, what measurement constitutes substantial compliance.

The methodology shall include information regarding how sample sizes to be used in compliance evaluations are determined, the types of conclusions the sampling permits, and the mechanisms for documenting qualitative reviews. The use of such criteria, procedures, frequency, and methodology should be unbiased and ensure fairness and consistency.

It is contemplated that the monitoring criteria, procedures and methodology will be developed in stages, with each stage consisting of a group of Settlement Agreement tasks determined by the IMT. In determining the stages, the IMT shall give priority to

Settlement Agreement tasks in accordance with their implementation timelines. The monitoring criteria, procedures, frequency, and methodology for those tasks or parts of tasks that are subject to or contingent upon future events, such as development of Personnel Information Management System (PIMS) protocols or the meet and confer process, shall not be developed until such future events occur, and those tasks shall not be included among the first stage. After the first stage of tasks has been determined, the

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IMT shall prepare a draft document describing the proposed criteria, procedures, frequency, and methodology for those Settlement Agreement tasks. The City and the Plaintiff's attorneys shall be provided drafts of the proposed monitoring criteria, procedures, frequency, and methodology in the first stage; the review period for the first stage shall be 30 business days and the review period for the second and subsequent drafts, if needed, shall be 20 business days. The goal of such review is to achieve consensus on the monitoring criteria, procedures, frequency, and methodology. If the City, Plaintiff's attorneys, and the IMT are unable to reach consensus, the IMT shall make the final determination, however the City and Plaintiff's attorneys do not waive their right to seek redress from the Court.

The fMT shall provide the City and Plaintiff's attorneys with a preliminary schedule for developing the monitoring criteria, procedures, frequency, and methodology for the first stage tasks for review and comment within 20 business days of the effective date of this Professional Services Agreement. The schedule shall provide that the final monitoring criteria, procedures, frequency, and methodology shall be completed within 195 business days of the effective date of this Professional Services Agreement. The EMT shall determine the schedule for developing the monitoring criteria, procedures, frequency, and methodology for all subsequent stages. Such schedule shall be provided to the City and Plaintiff's attorneys with reasonable time for review.

As the monitoring efforts progress and additional information is obtained, the IMT may determine that the criteria, procedures, frequency, and methodology needs to be modified. The IMT shall provide the City and Plaintiff's attorneys drafts of any proposed modifications to the monitoring criteria, procedures, frequency, and methodology with

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reasonable time for review. If the City, Plaintiff's attorneys, and the IMT are unable to reach consensus, the fMT shall make the final determination, however the City and Plaintiff's attorneys do not waive their right to seek redress from the Court.

The two-tiered monitoring process will require extensive on- and off-site document review, on-site conversations with Department officials, direct observation in

training settings, and field verification in each Department Bureau and Patrol Division. In addition, the IMT will provide irrimediate and direct feedback to Department officials when appropriate. The IMT will provide Technical Assistance and will offer advice regarding compliance with the Settlement Agreement in accordance with the Settlement Agreement. Technical Assistance refers to activity by the IMT to assist OPD to improve the adoption and/or implementation of particular policies, practices, and procedures. This is distinguished from the routine audit, review, and assessment activity of the IMT where the focus is on analyzing and reporting on OPD's compliance with the agreement.

Technical Assistance can take many forms, including advice, consultation, and referral to useful sources of information.

The IMT will do no extra work under this agreement, including providing technical assistance beyond the scope of the Settlement Agreement, without first receiving prior written authorization aom OPD. Should OPD request technical assistance on matters that are beyond the scope of the Settlement Agreement, Reiman will provide such assistance if appropriate, but because such services are not included in the Scope of Services or Budget for this agreement, Reiman will require a separate agreement setting forth the nature of the services and the amount and manner in which the City will pay for such services.

The IMT will conduct monitoring/auditing activities in all of the areas covered by the Settlement Agreement, including but not limited to the following areas:

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USE OF FORCE

The IMT will use the agreed upon audit methodology to determine whether the Department is in compliance with the use of force reporting requirements and whether the reports are complete, accurate, and submitted in a timely manner. The IMT will review all use of force reports regarding firearms discharges and will review a statistically valid sample of non-firearms use of force reports. The stratified random samples will include reports from a sample from BFO, and reports from a sample of all shifts and Police Service Areas, Special Operations Division and other Bureaus in the

Department. In the event the EMT observes a pattern of incomplete, untimely, or otherwise insufficient reports from a particular shift or district, the IMT will conduct a more extensive analysis of the reports from the relevant shift or district. In addition to reviewing the reports for quality and timeliness, the IMT will review the reports to determine whether officers are implementing the Department's use of force policies and training directives appropriately. In addition to the review discussed above, in order to determine whether Department officers are completing use of force reports for all investigated/reportable uses of force, the IMT will attempt to match other use of force indicators, such as misconduct complaints regarding uses of force and reports of injuries to arrestees, to determine whether a use of force report should have been generated. The IMT will also analyze policies and procedures used by the Department for Internal Affairs misconduct investigations, including a review of an appropriate sample of closed IA cases; assess and evaluate the quality and timeliness of the investigations; recommend reopening of investigations that the IMT determines to be incomplete; recommend additional measures that should be taken with respect to future investigations

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in order to satisfy the Settlement Agreement; and review and evaluate disciplinary actions or other interventions taken as a result of misconduct investigations. If the IMT determines that any use of force investigation or internal (IAD or Division-level) investigation/report which has been adjudicated or otherwise disposed or completed, is inadequate under the Settlement Agreement, the IMT shall confer with the Chief of Police, IAD Commander and the Inspector General, and provide a confidential written evaluation to the Department and the Court. Such evaluation shall be for the purpose of assisting the Chief of Police in conducting future investigations, and shall not obligate the Department to reopen or re-adjudicate any investigation. In the event that the IMT identifies missing, incomplete, or untimely use of force reports, the IMT will notify the parties and, upon request provide technical assistance to achieve compliance.

INTERNAL INVESTIGATIONS

The IMT will monitor investigations of officer-involved shootings and other critical incidents. The IMT will review the Department's policies and procedures pertaining to Internal Affairs and Division Level Investigations and will review a stratified random sample of investigations to evaluate their quality and timeliness. If the IMT observes a pattern of incomplete, untimely, or otherwise insufficient investigations from a particular unit, the IMT will conduct a more extensive analysis of investigations from that entity. The IMT will also notify the Department and may, upon request, provide technical assistance to achieve compliance. Technical assistance may include case study workshops with investigators. The IMT will analyze all Department investigations of allegations of Class I violations (including excessive force and false arrest) to assess their quality and

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timeliness. The IMT will also review completed and pending internal affairs proceedings and files except investigator[s] notes while the investigation is open. In addition to assessing the quality and timeliness of the investigations, the IMT

will evaluate the findings and conclusions reached in resolving complaints. The IMT will determine whether the findings, conclusions, and dispositions are supported by the facts. If the IMT observes a pattern of incomplete, untimely, or other-wise insufficient misconduct investigations, the IMT will conduct a more extensive analysis of investigations from that unit.

The IMT will use agreed-upon methodology to audit the Internal Affairs Department's compliance with the Settlement Agreement provisions to strengthen procedures for receiving citizen complaints. Audit areas will include, but not be limited to, location of the LkD offices, establishment of a toll-free complaint hotline, dissemination and availability of information on filing a citizen's complaint, and acceptance and processing of complaint forms, and Department members' responses to citizens who contact the Department, either in person or by telephone, to lodge a complaint against a Department employee.

PIMS

Upon request, the IMT will assist the Department in developing its PIMS. The [MT will audit the accuracy and completeness of information in the PIMS and managers' and supervisors' use of the PIMS in identifying and addressing at-risk behavior of subordinates.

The IMT will analyze the Department's protocol for using the PIMS to assess whether the Department has implemented adequate administrative and policy guidelines to ensure that the information entered into the PIMS is accurate and complete.

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As the PIMS is developed and ready for testing, the IMT will participate in the testing to assess the usability of the system and whether it complies with the technological requirements and substantive goals of the Settlement Agreement. If the IMT notes deficiencies, it may, upon request, provide technical assistance to aid in compliance.

DISCIPLINE SYSTEM

The IMT will monitor new and revised policies and other changes and refinements to the Department's disciplinary system through the monitoring activities. The IMT will analyze revisions to the Department's current policy to determine whether the new system provides fair, adequate, and timely discipline and non-disciplinary actions. The IMT will also assess whether the system tracks all disciplinary and non-disciplinary actions centrally and effectively. The IMT's assessment of the disciplinary system will include a review of the Department's training of officers and supervisors responsible for implementing the system. The IMT's review will also include an analysis of the disciplinary actions taken in those cases wherein misconduct is proven to assess the appropriateness and consistency of disciplinary action. The IMT will review all disciplinary cases arising out of Class I violations, and a stratified random sampling of Class 11 violations to determine whether any new or revised policies are being implemented appropriately.

REPORTS

At a minimum, the fMT shall promptly inform the Department, in writing, of areas needing improvement and deficiencies rioted in audits and reviews conducted under the Settlement Agreement in sufficient detail to enable the Department to initiate corrective action. The underlying data and analysis on which such audits and reviews are

based shall be provided to the Department upon request.

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During the first two (2) years of this Professional Services Agreement, the IMT shall issue quarterly reports to the parties and to the Court. Thereafter, the [MT shall issue semi-annual reports to the parties and the Court. At any time during the pendency of the Settlement Agreement, however, the rMT may issue reports more frequently if the [MT determines it appropriate to do so. These reports shall not include information specifically identifying any individual member/employee. At least ten days (excluding weekends and federal or state holidays) before issuing a report, the IMT shall provide to the parties a draft for review to determine if any factual errors have been made, and shall consider the parties' responses; the IMT shall then promptly issue the report. All efforts to make these reports available to the general public shall be made, including posting on the Department's web site, unless the Court orders that the reports or any portions of the reports should remain confidential. In addition, public disclosure of the reports and any information contained therein shall comply with the Public Safety Officers' Procedural Bill of Rights.

During the first two years of the project, at least one of the IMT members will be available in Oakland on a nearly full-time basis. At all other times, rMT members will be accessible by telephone, e-mail, and facsimile.

During the first year of the Settlement Agreement, the IMT shall conduct monthly meetings that shall include representatives of the Department, the City Attorney's Office, the City Manager's Office, the Oakland Police Officers' Association, other relevant bargaining units, and plaintiffs' counsel. The purpose of these meetings would be to facilitate the monitoring process and communicate on the City's progress, difficulties encountered during the monitoring activities, and other matters of interest or concern. The IMT shall prepare, and send to all meeting participants, meeting agendas and summary meeting notes documenting issues discussed and agreed upon assignments for

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the upcoming monthly meeting. These meetings may be continued beyond the first year at the request of the parties to the Settlement Agreement.

The [MT shall also convene meetings with representatives of the Police Department, City Attorney's Office, City Manager's Office, the Oakland Police Officers' Association, other relevant bargaining units, and plaintiffs' counsel to provide a forum for the discussion and comment of the INIT's reports before the reports are issued to the Court.

The INIT anticipates spending a minimum of 447 days (ex: 2 persons x 1 day @ 2 days) on this project during the first year. During the second and subsequent years, the IMT estimates that it will spend at least 312 days on this project. In total, over a five-year period, the IMT estimates that, not including any subcontractors, will spend at least 1695 days on this project.

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EXHIBIT B

COSTS

The Independent Monitoring Team IMT's (hereinafter referred to as IMT) actual costs for this project will be \$3,576,898.82, and the [MT will cap its overall budget, assuming a five-year project, at this amount. ' The [MT agrees to cap for five years at this amount. If the actual costs are less, the City will be billed for the lesser amount. Control mechanisms, such as making specific IMT members responsible for discreet tasks, will be put in place to ensure that the IMT's work is of high quality while preventing unnecessary duplication of effort. Other costs will be minimized because the offices of Kelli Evans and Christy Lopez are already set up to provide the necessary infrastructure and administrative support to the IMT.

The IMT's cost proposal includes professional services; travel; communication/production costs; subcontracting fees; overhead/indirect costs; and one time/fixed costs. The cost proposal also includes a projected rate of inflation of 3% per year.

1. Professional Services

Each member of the IMT has a daily rate of \$1500 for both on- and off- site monitoring activities. While conducting on-site monitoring activities, the daily fee will not exceed \$1500, even if the IMT member works more than eight hours per day. If an IMT member spends less than eight hours on review activities, the fee will be pro-rated, with each hour equaling one-eighth of a day. For off-site monitoring activities, IMT members will pro-rate partial days spent on monitoring activities, with each hour equaling one-eighth of a day.²

The fees for professional services for IMT members for the first year of this project are estimated not to exceed \$670,500.00. The fees for I MT members for the life of the project are estimated not to exceed \$2,628,437.44. If the IMT's professional fees total less than this amount, the [MT will bill the City for the lesser amount.

I In the event that it is not possible to achieve and maintain substantial compliance

within five years, the monitoring cost of each additional year will remain the same as the cost for years two through five, including an inflationary rate of 3%.

2 For example, if an IMT member spent four hours conducting off-site document review, the fee for professional services would be \$750. If the IMT member spent ten hours in one day reviewing documents off-site, the fee for professional services would be \$1,675. While on-site, the cost per day will never exceed \$1,500, and will be less if the IMT member spends less than eight hours on-site. Item @@

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EXHIBIT B

COSTS

Table I lists the estimated professional fees for each year and for the total five-year period, as well as the estimated number of days the IMT expects to spend on- and off-site:

Table 1
Professional Fees by Year

Project Year	Days On-Site	Days Off-Site	Total Days	Professional Site Fees
Year 1	295	152	447	\$670,500.00
Years 2-5	152	160	312	\$468,000.00
Entire Five Year Project	903	792	1695	\$2,628,437.44

IL Sub-Consultant/Contractor Costs

The IMT anticipates it will retain the services of sub-consultants and sub-contractors to assist in developing databases and scientifically valid review methodologies to assist in monitoring OPD. The IMT anticipates that subcontracting/consulting costs for the life of the project will not exceed \$351,017.62. Table 2 lists the estimated subcontracting and sub-consulting costs for the first year and for the total five-year period:

Table 2
Sub-Consultant/Contractor Costs by Year

Project Year	Sub-Consultant/Contractor Costs
Year 1	\$100,000.00
Years 2-5	\$60,000.00
Entire Five Year Project	\$351,017.62

111. Travel Costs

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EXHIBIT B

COSTS

Travel costs include airfare, per diem/meals, lodging, and car rental/leasing. To estimate inflationary impact, the travel costs for years three through five have been increased by 0%. Per diem/meals and lodging are estimated at the federal government rate for Oakland, CA, under the assumption that the IMT will be eligible for city government rates for lodging and that such rates are comparable to the federal rate. If this is not the case, the lodging cost will have to be adjusted by mutual agreement of the

parties. The IMT will rent or lease a car while on-site (whichever is more cost effective), at an estimated cost of \$600 per month.

Travel costs for the first year of this project are estimated to be \$72,915.00. The travel costs for the life of the project will not exceed \$258,266.41. The IMT will make all reasonable efforts to minimize travel costs, including utilizing discounted airfares when practicable. If the IMT's actual costs and/or fees total less than this amount, the IMT will bill the City for the lesser amount. Table 3 lists the estimated travel costs for each year and for the total five-year period, alongside the estimated number of visits and number of days on-site the IMT has committed:

Table 3
Travel Costs by Year

Project Year	of on-site visits	# of days on-site	Travel Costs
Year 1	41	295	\$72,915.00
Years 2-5	32	152	\$44,304.00
Entire Five Year Project	169	903	\$258,266.41

IV. Communication/Production Costs

Communication/Production costs include telephone, postage (express and regular), facsimile transmission, photocopying, report presentation costs, and similar items. Communications costs for the first year of this project are estimated not to exceed \$4,000.00, and communications costs for the life of the project are estimated not to exceed \$18,642.69. Table 4 lists communications costs for each year and for the entire five-year project:

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Table 4
Communications Costs by Year

Project Year Communications
Costs
Year 1 \$4,000.00
Years 2-5 \$3,500.00
Entire Five \$18,642.69
Year Project

V. Overhead/indirect Costs by Year

The [MT's budget includes a cost estimate of 10% of professional fees, travel costs, and communications costs, as overhead/indirect costs. These costs are assigned to intangible and indirect costs, including, proposal development; depreciable office equipment; office space; insurance; etc. Table 5 lists the overhead/indirect costs for each year and for the entire five-year project:

Table 5
Overhead/Indirect Costs by Year

Project Year Overhead/Indirect
Costs
Year 1 \$74,741.50
Years 2-5 \$51,580.40
Entire Five \$290,534.65
Year Project

VI. One time/Fixed costs

IMT members will be on-site substantially more during the first year of the agreement than during subsequent years. This is because, typically, it is during the first year of monitoring that parties need the most guidance regarding the requirements of the

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settlement agreement and how to most effectively and efficiently comply with it. In addition, typically many settlement agreement requirements are relatively quickly met during the first year and thereafter require only the monitoring necessary to ensure that compliance is maintained. On-site technical assistance for those areas will therefore be decreased after the first year. These one-time costs of increased monitoring are captured by the additional costs for on-site professional fees and related travel, and are not listed separately. In addition, as noted above, there will be one-time additional costs for subcontractors, as initial databases, review protocols, and sampling mechanisms are created. These costs are captured in the increased amount for subcontractors reflected in year one of the IMT's cost proposal. Finally, there will be miscellaneous one time costs ranging from the creation of an invoicing system compatible with the City's requirements to drafting and negotiating subcontracts to the purchase of software and technical support to enable the receipt, transfer, and reading of electronic files from OPID. One time/fixed costs are estimated not to exceed \$30,000. If actual expenditures on one time/fixed costs total less than this amount, the City will be billed for the lesser amount.

VII. Summary of Total Costs and Time Commitment

As noted above, the IMT anticipates spending 903 days on-site and 792 off-site during the five-year life of the project, for an estimated minimum of 1695 days devoted to assisting OPD in coming into compliance with the Settlement Agreement. As detailed above, the total costs for the entire five-year project will not exceed \$3,576,898.82.

If any cost and/or fee is less than the estimate provided in this proposal, the IMT will bill for the lesser amount.

Table 6 Cost Estimate by Year

Project Year Cost Estimate
Year One \$952,156.50
Year Two \$627,384.40
Year Three \$646,205.93
Year Four \$665,592.11
Year Five \$685,559.87
Entire Five \$3,576,898.82
Year Project 1

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As noted above, the cost estimate in Table 6 includes professional services; travel; subconsultant/contractor services; communications costs; and overhead/indirect costs, detailed above. The cost estimates by year for years 2-5 include a 3% annual rate of inflation.

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