

May 10, 2021

Jesica Moya, Legal Administrative Supervisor
Officer of the City Attorney/City Prosecutor
100 N. Garfield Avenue, Room N-210
Pasadena, CA 91101

Dear Supervisor Moya:

I write in response to the City of Pasadena's Request for Proposals for the contract position of Independent Police Auditor and technical advisor to the Community Police Oversight Commission. Modern Policing is premised on the belief that policing can be both effective and community-centered, transparent and respectful of privacy, and that the same rigor applied to fighting crime can be directed at the methods, integrity, and management of departments themselves. Strong systems of critical analysis, including civilian oversight, promote the legitimacy of police departments and ensure that policing is conducted in a fair, constitutional manner in keeping with the values of the communities they serve. After review of the RFP, I am responding only to Subdivision A, which seeks a contract auditor to fulfill the duties found at PMC 2.30.020(A)(8).

A. Describe the proposer's experience in providing similar oversight services, independent police auditor services, and/or independent reviews concerning law enforcement agencies.

Pasadena Municipal Code 2.30.020(A)(8) outlines the duties of the Independent Auditor; the position itself is administered by the City Attorney. The substantive duties¹ of the auditor are set forth as follows: 8(a) serve as best-practices advisor to the community police oversight commission; (c) review all categorical uses of force; (d) review investigations of personnel complaints of bias-based policing; (e) recommend changes to policies, procedures, or training); and (f) issue public reports.

Modern Policing brings extensive experience in providing oversight services to police departments, designing police auditing structures, and conducting independent reviews of disciplinary proceedings and use of force incidents, including officer-involved deaths. As Principal of Modern Policing, I will directly serve as Independent Auditor and work that

¹ Sections 8(b), (h), (i), (j) provide context and are either prohibitions on actions by the auditor, admonitions to adhere to law, or procedural issues such as "having unimpeded access" to the police department and issuance of subpoenas.



I have done outside of Modern Policing (primarily as an Associate Consultant to 21CP Solutions, LLC) is all relevant to this proposal response. However, as the RFP limits this response to three projects, those set forth below are direct contracts with me or Modern Policing as an entity and all three are substantively relevant to this response. I provide more work history context in Section C.

1. Deputy Monitor, Cleveland Police Monitoring Team.

Contact: Hassan Aden, Monitor, Aden@theadengroup.com.

Contract value: \$63,000 NTE annually, billed hourly.

The Cleveland Police Monitoring Team works as an agent of the United States Federal Court to assess the work of the Cleveland Division of Police in relation to the federal Consent Decree. In my role as Deputy Monitor, I focus on policy, training, and accountability, primarily in the core areas of search and seizure, use of force, and complaints. This past year, I helped draft the methodology for use of force and accountability assessments, created the survey instrument for the data collection, and am currently managing the use of force discussions with the Department of Justice and the police department. In past years, I have assisted with and reviewed policy and training development. As Deputy, I also help manage the team and engage across other areas, including community policing, technology development, transparency, recruiting and hiring. I was a primary drafter for the Eighth and Ninth semiannual reports of the Monitoring Team. I also work with the Baltimore Police Consent Decree in a similar role.

As such, I have extensive experience reviewing complaints and uses of force, as well as significant experience developing best practices in those areas.

2. Milwaukee Fire and Police Commission.

Contact: Griselda Aldrete, Griselda.aldrete@gmail.com.

Contract value: \$10,600.

The Executive Director of the Milwaukee Fire and Police Commission ("FPC") retained Modern Policing to assess FPC's audit capacity relative to the requirements of the Settlement Agreement entered in the matter of *Charles Collins, et al. v. City of Milwaukee, et al.*, 17-CV 00234 (JPS), in which raised numerous constitutional challenges to the Milwaukee Police Department's policies and practices concerning, primarily, its stops, frisks, searches, detentions and accountability reviews. The end product was a detailed report outlining specific recommendations for implementing best practices and updating the audit capacity of the FPC in terms of policy, structure, and personnel. As such, this



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work involved advising a civilian oversight entity on best practices, roles, and processes, and is directly relevant to the proposal at hand.

3. Town of Arlington, MA, Police Department.

Contact: Chief Julie Flaherty, JFlaherty@town.arlington.ma.us.

Contract value: \$9,600.

Modern Policing was retained to provide a comprehensive review of 15 core policies for the Town of Arlington Police Department, including: Oath of Office/Code of Ethics, Stop & Frisk, Consular Notification, Federal Immigration Laws, U-Visa Program, Authority and Responsibility, Bias Based Profiling, Serving People Experiencing Symptoms of Mental Illness, Discipline and Accountability, Internal Affairs, Use of Force, Vehicle Pursuits, School Resource Officer Program, Juvenile Services, and Child Requiring Assistance. The Township was provided with draft policies incorporating best practices and a detailed summary of the proposed changes, as well as source materials explaining the reasoning.

This work with the Arlington Police Department demonstrates a breadth of understanding of best practices across a wide range of substantive areas.

B. Not responding to Commission Staffing role.

C. Identify the key employee(s) that would be assigned to the above matter(s).

I will serve as the Independent Auditor and will directly review the cases and matters required and provide the technical assistance to the Commission. Prior to working in public safety consulting, I served as the Chief Operating Officer (an executive position at the Deputy Chief level) of the Seattle Police Department (2000+ employees; \$321M budget) from 2014-2018, leading substantial reforms to the department's basic business practices, including use of force practices, implementation of major technology upgrades (including a body worn camera program), use of data to address crime and departmental performance, and overhauls to recruiting, hiring, and staffing systems – all under intense court scrutiny as part of a federal consent decree and ongoing community concern. During this period of rapid, meaningful reform, I helped forge consensus among elected leaders, community members, and stakeholders involved in the consent decree process, including the Community Police Commission. I was the executive lead on the federal consent decree with the Department of Justice, resulting in successful completion of Nine Assessments and ultimately, a finding of full and effective compliance by the Court. I also promoted transparency at the department and SPD now reports on use of force, crisis intervention,



Terry stops, as well as crime (especially bias crime) in both annual reports and on-line dashboards. During that period, community satisfaction in SPD improved from 60% to 72% since 2013 (and consistently higher across all demographics). Diversity hiring also increased by 35% during my tenure.

In 2018, the Seattle Community Police Commission issued a statement about my work:

In a statement, the civilian Community Police Commission — which was created as a part of the consent decree — praised Maxey. "Brian has worked hard and thoughtfully to embed principles of good government and public accountability into all aspects of the police department," co-chairs Rev. Harriet Walden, Enrique Gonzalez and Issac Ruiz said. "Significantly, he has also insisted the same principles apply to civilian oversight. He has been open to learning from the community, even from those who are traditionally mistrustful of law enforcement." – Crosscut, 9/27/2018.

As an Associate Consultant with 21CP Solutions, LLC, I have worked with the Oklahoma City Police Department, Minnesota Department of Public Safety, the City of Tacoma and am a co-lead facilitating the work of the Task Force on Policing at the Port of Seattle. Recently I co-authored the final report for the City of Tacoma, which included force and accountability reviews and assessments of policy, training, and community engagement.

Although this is not a legal services contract, I am an attorney admitted to practice law in CA, NY, and WA, and have managed over 300 civil rights cases, including Ninth Circuit appeals and United States Supreme Court petitions (on briefs).

Finally, I bring deep connections in the world of policing – from community organizers to police chiefs to the Department of Justice – and will draw on these relationships as necessary to support my work in Pasadena.

D. Identify the location of the office from which the services will be provided.

Modern Policing is located in Seattle, WA. However, processes like this cannot be done without advancing relationships and direct, hands-on understanding of police and Commission processes. There are too many "absentee landlords" in the monitoring and auditing profession, which can detract from legitimacy. As such, while much of the work can be done remotely (reviewing complaints and uses of force and some day-to-day interactions), as the pandemic restrictions alleviate, I anticipate an increasing and regular



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on-the-ground presence. The key will be finding the balance between in-person and virtual work to ensure that too many travel costs are not incurred, but that strong professional and public relationships are created to ensure confidence in this process.

I expect that major presentations to stakeholders, both City and public, and some balance of Commission meetings would need to be in-person. Similarly, critical events, training updates in core areas, and changes in staffing at the police department will likely require in-person visits. Also, as I have not worked with the City of Pasadena previously, and have no affiliations or allegiances with any group, community or professionals in Pasadena, I am free from local conflicts of interests or influences. However, relationship building will be integral to this success of this project.

E. Scope and Pricing

Modern Policing operates at a rate of \$250/hour, plus travel expenses. All overhead, including insurance, materials, software and electronic systems, etc., is included in the hourly rate. Travel time is not billed – only hours of substantive work are included. Travel expenses include flights, transportation (car rental), lodging and per diem as permitted by city policy. As set forth below, Modern Policing anticipates that the requested body of work will require approximately 225 hours annually, plus travel expenses of \$10,000.

While the RFP specifically defines the scope of work, much will depend on how many cases are presented for review and what “policies, procedures, and officer training” the Community Police Commission wishes to explore in any given year and/or what issues surface². The Pasadena Police Department reports annually (and sometimes bi-annually) on Use of Force and Discipline. Reviewing those reports for the past five years (the last available reports are the mid-year 2020 reports) provides a baseline for the anticipated workload moving forward.

	2016	2017	2018	2019	2020 (through June)
Total Complaints ³	32	32	29	60	29
Use of Force Incidents ⁴	45	44	30	34	11

The Discipline reports do not identify any complaints alleging bias, although some categories, such as “conduct,” “rude,” or “unreasonable force,” could perhaps include

² The scope also includes “performing related duties,” which is undefined.

³ Excluding collision investigations

⁴ Multiple officers and/or multiple force “applications” may be involved in one incident



bias allegations. It would be unacceptable to accept this high-level categorization of complaints and assume there are no bias complaints – I would expect to review *all* complaints and ensure that the process, from classification to discipline, is appropriate. The number of annual complaints has risen to 60 over the past two years, but that is a reasonable number to review, and sampling is unlikely to be required.

In contrast to complaints, there was a decrease of use of force in the past few years, to about 30 case per year, which again, is manageable. The complexity of use of force cases changes depending on type and severity. Historically, common types of force applied in Pasadena include bodily force and conductive energy weapons (Tasers), as well as carotid restraints (lateral vascular neck restraints), which were suspended by the department in June 2020 and subsequently prohibited by state law. Less frequent uses of force involve baton strikes and “handgun.” It is not clear from the available data whether handgun involves the pointing of a firearm, use of a firearm, and whether it applies to other firearms.

To accomplish the auditing body of work, Modern Policing anticipates approximately 150 hours of review time, assuming proper access to departmental systems, including body-worn camera evidence. An additional 30-40 hours of work is anticipated for report writing, assuming annual reporting. Additional time would be incurred presenting findings, investigating any specific critical events, and providing ongoing technical assistance to the Commission, which will vary by year. Overall, the scope of the Independent Auditor role is likely to be approximately a 225-hour annual contract. Additionally, assuming six annual visits with average travel costs of \$2,000, the annual travel costs would likely be around \$10,000. More visits would clearly incur more costs.

As such, the estimated pricing of the Independent Auditor position as set forth in the RFP is \$66,250. Modern Policing proposes setting a NTE at \$70,000 and will work efficiently to bring the work in under budget. This number anticipates a high level of technical assistance to the Commission and gives “room to move” as unaddressed issues develop. I am very willing to discuss or consider alternative budgeting structures.

Finally, thank you very much for the opportunity to respond to this RFP. I look forward to discussing this opportunity with you further.



Brian G. Maxey
Principal



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