



# City of San Leandro

Meeting Date: July 21, 2014

## Staff Report

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**File Number:** 14-315

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.A.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Lianne Marshall  
Assistant City Manager

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for a Resolution to Approve and Appropriate \$156,705.21 from the Information Technology Fund for a Consulting Services Agreement with Odin Systems to Install the Civic Center Security Camera System Project and to Begin the Process of Expanding the Program to Install Two Community Cameras in Two to Be Determined Locations Selected in Accordance with the City Council's Policy

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve a resolution authorizing the City Manager to execute an agreement with Odin Systems for a not to exceed amount of \$156,705.21 to replace the surveillance and security camera system at the Civic Center (comprised of City Hall, the Police Department, and the City Jail) and to begin expanding the system to include two community cameras, the locations of which are to be determined by the City Council by separate action in accordance with the City Council's policy.

At a future date, the Police Department will provide the City Council with a recommendations list for two locations to expand the camera system. Staff anticipates requesting additional funding from the City Council at that time.

### BACKGROUND

The current security camera system is aging and in need of replacement. The picture quality is very low and it cannot record or store video. Staff recommends upgrading to a modern, high definition system capable of capturing and storing video.

On May 5, 2014, the Police Department reviewed a policy for implementing security cameras in the community with the City Council and received direction from the City Council for additional analyses.

### Analysis

The current Civic Center security camera system was installed in 1994 with two cameras in City Hall and one at the Police Department. Later, three additional cameras were added inside City Hall. The video quality is very low and the system lacks the capability to record and store video.

Beginning in 2012, staff analyzed replacing the existing system and expanding it to include several cameras, including some within public spaces to enhance public safety in a manner consistent with legal privacy rights. At that time staff found and determined that Odin Systems was the best-in-class provider for such a system.

Odin has developed highly specialized knowledge in building, designing, and implementing security camera systems for both indoor and outdoor public spaces and buildings. Odin Systems is used extensively throughout the region by other municipalities. Most importantly, Odin Systems integrates with existing information technology infrastructure already used by the City and the Police Department. The contract and scope of work also envisions the City piloting and testing other Odin Systems products and solutions to determine their suitability and fitness for future use within the City's existing, and scaling information technology infrastructure. For these reasons, the City Manager, through his designee the Information Technology Manager, found that Odin Systems is a sole-source provider.

### **Previous City Council Actions**

- On May 5, 2014, the City Council heard comments from the Police Department regarding the Community Cameras Policy and provided direction for further analyses.

### **Legal Analysis**

The City Attorney has approved as to form the Consulting Services Agreement with Odin Systems and the Community Camera Policy.

### **Fiscal Impacts**

The Civic Center (comprised of City Hall, the Police Department, and the City Jail) will be done in Phase 1 and will cost \$156,705.21. Phase 2 will include community cameras in two locations and additional funding will be requested for it at a future date.

It is recommended that the cost of \$156,705.21 be funded from the IT fund balance for the current Civic Center Project (Phase 1).

### **Budget Authority**

The Finance Director has determined there are sufficient funds in the IT Fund Balance for the \$156,705.21 appropriation to account 688-01-121-7410.

## **ATTACHMENTS**

### **Attachment to Staff Report**

- San Leandro Police Department Public Safety Camera System Policy.

**Attachment to Resolution**

- Consulting Services Agreement between the City of San Leandro and Odin Systems with and Scope of Services and pricing.

**PREPARED BY:** Tony Batalla, Information Technology Manager, City Manager's Office

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## Public Safety Camera System

### 378.1 PURPOSE AND SCOPE

This policy applies to all Police Department maintained public safety cameras that have monitoring and/or recording capabilities. Its purpose is to manage the use of public safety cameras in public places and to enhance public safety in a manner consistent with legal privacy rights.

### 378.2 GENERAL PRINCIPLES

- (a) The principal objectives of public safety camera monitoring and/or recording are to:
1. Enhance existing public safety strategies, plans and initiatives;
  2. Prevent and deter crime and public disorder;
  3. Reduce the fear of crime;
  4. Identify criminal activity and suspects;
  5. Identify and gather evidence;
  6. Document police actions to safeguard the rights of the public and police officers;
  7. Reduce the cost and impact of criminal activities to the community;
  8. Improve the allocation and deployment of law enforcement assets. Any use of public safety / security cameras that deviates from these principles is strictly prohibited by this policy.
- (b) Public safety cameras monitoring and/or recording must be conducted in a professional, ethical and legal manner. Personnel using the public safety camera system will be trained and supervised in the responsible use of the system. Violations of this policy and its procedures may result in disciplinary action and subject those involved to criminal and/or civil liability under applicable state and federal laws;
- (c) Information obtained through public safety camera video monitoring and/or recording will be used exclusively for safety, security, and other legitimate law enforcement purposes and will only be released in accordance with this policy or as required by law;
- (d) Public safety cameras that monitor and/or record public areas will be used in a manner consistent with all department policies, City ordinances, procedures, State and Federal laws. Monitoring based solely on classifications protected by the U.S. or State Constitutions (e.g. race, gender, sexual orientation, national origin, disability, etc.) is prohibited.
- (e) Public safety camera monitoring of public areas, dwellings, and businesses is limited to uses that do not violate the reasonable expectation of privacy as defined by law.

### 378.3 PROCEDURE

- (a) Public safety cameras will be monitored by personnel authorized by the Chief of Police or designee. All public safety camera system operators must inspect the video monitors at or near the beginning of their shifts to ensure the system is functioning properly and that the system is recording correctly using the proper date/time stamp;
- (b) An officer will be dispatched to any area in which a possible crime, motor vehicle accident, public safety risk, traffic incident, or other incident that necessitates police intervention is first observed using the public safety camera system. The public safety camera system operator shall log that an officer was dispatched to an incident detected by the public safety cameras.
- (c) Public safety cameras will be used to observe locations that are in public view and where there is no reasonable expectation of privacy. Cameras will not be directed to look into adjacent, non-City owned buildings.
- (d) Tampering with or duplicating recorded information without authorization is prohibited;
- (e) Personnel shall not disseminate information obtained through the monitoring of public safety cameras unless such release complies with the law, this policy, or any other Police Department information-release policies.
- (f) Public safety cameras should be clearly marked so as to be conspicuous to the general public and the location of each camera should be publically noticed at least 72 hours prior to installation. Public safety cameras should be positioned in a manner to avoid being vandalized.
- (g) Public safety camera locations and fields of view shall be determined by the Chief of Police, and may include but shall not be limited to: areas that maximize and enhance public safety; areas identified as "hot spots" for criminal activity; and/ or major thoroughfares into and out of the City. Placement of public safety cameras will also take into consideration physical limitations such as availability of power, cellular signal network reception and reasonable mounting facilities.

### 378.3.1 RESPONSIBILITIES

- (a) The Police Department is the only City department authorized and responsible for the oversight and use of public safety cameras on behalf of the City. In addition to being responsible for all operational issues related to public safety cameras, the Police Department has primary responsibility for ensuring adherence to this policy and for disseminating the policy to persons requesting information on public safety camera policy and procedures.
- (b) The Police Department is responsible for following new developments in relevant laws and security industry practices to ensure that public safety camera monitoring and/or recording is consistent with the highest standards and protections.
- (c) This policy does not create an affirmative duty upon the Police Department to monitor public safety camera equipment in public places on a continuous or periodic basis.

### 378.3.2 TRAINING/OVERSIGHT

All personnel operating the public safety camera system will be trained in the technical and legal parameters of appropriate system use.

- (a) Personnel will be given a copy of this policy and will provide written acknowledgment that they have read and understood its contents;

- (b) Personnel will receive yearly training to reinforce the importance of proper use of the system and to keep abreast of current law;
- (c) All personnel involved in monitoring and/or recording public areas will perform their duties in accordance with relevant law and this policy;
- (d) The Chief of Police or designee(s) will ensure that responsible monitoring/recording practices are followed by conducting yearly audits. Such audits will include an inspection of the monitoring equipment, camera placement, maintenance logs, and incident documentation records.

### 378.3.3 RETENTION, EXTRACTION AND STORAGE PROCEDURE

- (a) In accordance with California Government Code section 34090.6, recorded video will be stored for a maximum of 90 days. Recordings will be deleted after 90 days unless the video footage must be retained as part of a police investigation, claim filed, pending litigation, criminal proceeding, or Professional Standards and Training Unit Investigation into alleged misconduct.
- (b) All requests for a copy of video surveillance footage require the completion of a "Request for public safety camera video" form. This form must include the date of the request, name and contact information (including mailing address, telephone number, email address) of the person or entity making the request, a brief description of and reason for the request, incident case number, if available, specific time frames, signature of the requesting officer, and the name of the extracting officer;
- (c) Only personnel authorized by the Chief of Police or designee are authorized to extract video footage from the system. Video monitors will not be placed in locations that facilitate public viewing. Video monitors and storage equipment will be kept in a locked and key controlled room.
- (d) Video footage extracted onto digital media for investigative purposes shall be marked with the incident case number, the extracting officer's name and serial number, and the appropriate watermarking or system verification information. The digital media will then be given to the investigating officer and booked as evidence into the Property Room. The requesting officer is responsible for booking the digital media, including a copy of the "Request for public safety cameras video" form, into evidence;
- (e) The only digital media recognized as authentic for legal or evidentiary purposes shall be the original extracted version booked into the Property Room. Officers and investigators shall not maintain the original extracted media with the incident case file; however, "working copies" of this media may be part of the file;
- (f) A download log will be kept for all extracted footage along with the completed "Request for Public safety camera video" forms in the monitoring room.
- (g) Purging of the system will be automatically set based upon the retention period in section 387.3.3(a).

### 378.4 AUDITS

Audits will be conducted annually by the public safety cameras manager to ensure compliance with this policy. Completed audit reports will be forwarded through the Services Captain to the Chief of Police or designee. At the discretion of the Police Chief and City Manager, an independent consultant may be selected to conduct a review of the audit findings.

### **378.5 COMPLAINT PROCESS**

All internal and external complaints related to the public safety camera system or this policy will follow standard complaint procedures as outlined in the San Leandro Police Department Policy Manual, and applicable law.

### **378.6 ANNUAL REVIEW OF THE PUBLIC SAFETY CAMERA SYSTEM**

The Chief of Police or designee will conduct an annual review of the public safety camera system. The annual review will include an inventory of video monitoring installations, dates of installations, summary of the purpose, adherence to this policy and any proposed policy changes. The results of each review will be documented and maintained by the Chief of Police or designee and other applicable advisory bodies. Any concerns or deviations from this policy will be addressed promptly and effectively.

### **378.7 PUBLIC EDUCATION**

The Chief of Police or designee will provide public education regarding this policy during the first year of its implementation and as requested every year thereafter, which may include public meetings, posting informational items on the City website, including this policy, and/or having informational flyers available to the public.

### **378.8 REVISION AND ADOPTION DATES**

**ADOPTED: XXXXXXXX**

**By order of:**

**Sandra R. Spagnoli, Chief of Police**

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# City of San Leandro

Meeting Date: July 21, 2014

## Resolution - Council

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**File Number:** 14-316

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Lianne Marshall  
Assistant City Manager

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION Approving an Agreement with Odin Systems to Replace the Civic Center Security Camera System and Beginning Work to Add Two Community Cameras in the Future, in Accordance with the City Council's Policy; and Authorizing the Appropriation of \$156,705.21 from the Information Technology Fund Balance (approves a consulting services agreement with a not to exceed amount of \$156,705.21 and authorizes appropriation in the amount of \$156,705.21)

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WHEREAS, an agreement between the City of San Leandro and Odin Systems, a copy of which is attached, has been presented to this City Council; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, the City Manager recommends approval of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said agreement with Odin Systems in the amount of \$156,705.21 is hereby approved and execution by the City Manager is hereby authorized; and

That an appropriation of funds in the amount of \$156,705.21 from the Information Technology Fund Balance to the Information Technology Operating Budget (Account 688-01-121-7410) is hereby authorized to cover the costs of the initial scope of work to replace the Civic Center Security Camera System(Phase 1).



**CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
ODIN SYSTEMS**

THIS AGREEMENT for consulting services is made by and between the City of San Leandro ("City") and Odin Systems ("Consultant") (together sometimes referred to as the "Parties") as of July 1, 2014 (the "Effective Date").

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on January 1, 2015, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant's obligations hereunder.
- 1.5 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.

**Section 2. COMPENSATION.** City hereby agrees to pay Consultant a sum not to exceed \$156,705.21, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall

submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

**2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

- 2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B, and shall not exceed \$0.00. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, unless otherwise specified in Scope of Services, Exhibit A, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall

be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

**4.1 Workers' Compensation.**

**4.1.1 General Requirements.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agendas, and subcontractors.

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$2,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**4.2.4 Submittal Requirements.** To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General Requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.3.2 Claims-Made Limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

**4.3.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

**4.3.4 Submittal Requirements.** To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

- 4.4.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- 4.4.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 4.4.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).
- 4.4.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.
- 4.4.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

**4.5 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

**Section 6. STATUS OF CONSULTANT.**

**6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

**6.2 Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7. LEGAL REQUIREMENTS.**

**7.1 Governing Law.** The laws of the State of California shall govern this Agreement.

**7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

**7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

**7.4 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect



at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

- 7.5 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 90 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
  - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
  - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
  - 8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.

- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place

Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

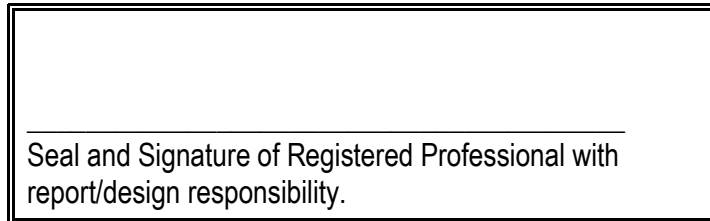
Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by Chief Sandra Spagnoli ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** Any written notice to Consultant shall be sent to:  
Odin Systems  
Dustin Saylor  
3047 University Avenue, Suite 302  
San Diego, CA 92104  
[dustin@odinsystems.com](mailto:dustin@odinsystems.com)

Any written notice to City shall be sent to:  
City of San Leandro  
Tony Batalla, IT Manager  
835 E 14<sup>th</sup> Street  
San Leandro, CA 94577

With a copy to:  
City of San Leandro  
Department of Finance  
c/o Purchasing Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

**10.11 Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



**10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	Indemnification

**10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**10.14 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

**SIGNATURES ON FOLLOWING PAGE**

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

CONSULTANT

\_\_\_\_\_  
Chris Zapata, City Manager

\_\_\_\_\_  
Dustin Saylor, President, Odin Systems

Attest:

\_\_\_\_\_  
Marian Handa, City Clerk

Approved as to Fiscal Authority:

\_\_\_\_\_  
David Baum, Finance Director

688-01-121-7410

\_\_\_\_\_  
Account Number

Approved as to Form:

\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

1969630.1

## EXHIBIT A

### SCOPE OF SERVICES

#### **Police Department/ City Hall**

- Odin systems will pre-configure all cameras with mounting hardware and software.
- Odin will install all cameras in agreed locations; see estimate 1140 and drawings provided. The city of San Leandro will provide all cable runs with recommended cable from Odin. We will work with the city during the installation of the cable runs to ensure everything meets our standards.
- Odin will install and configure the video surveillance recording server with all updates and software pertinent to the system.
- City is to test and label all cable runs for each camera within the system.

#### **Servers/ Client viewing stations**

- Odin will provide the recording server and viewing station noted on estimate 1189 and work with IT in getting the recommended storage for retaining the video data for the system.
- All servers will be programmed and configured with basic users and rights within the recording software.
- Odin will install UPS, Servers and client computers in locations IT and PD have designated for use.

All material is to be as specified. All work to be completed in a workman like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed upon written orders. Exclusions: Permits Permit fees, Encroachment permits and traffic control.

**EXHIBIT B  
COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES**

**ESTIMATE**

**ODIN SYSTEMS INC. CA**  
3047 UNIVERSITY AVE. STE. 302  
SAN DIEGO, CA 92104

DATE	ESTIMATE #
4/9/14	1140



BILL TO:		TERMS		PROJECT	
San Leandro Police Department Att: Greg Lemmon 901 East 14th Street San Leandro, CA 94577		Net 30		PD/ City Hall Phase 1	
ITEM	DESCRIPTION	QTY	COST	TOTAL	
MOB-MXM12DSECDNIGH...	In/Outdoor Mega Dual, incl. Wide Angle day (color) (43mm) and Wide Angle night (BMW) (43mm) DNight: automatic day/night switching depending on illumination	1	1,626.00	1,626.00	
MOB-MXM12DSECDNIGH...	MOBOTIX M12D-SEC 3.0 Megapixel Indoor/ outdoor(IP65) Camera, with dual day and or night lenses	12	1,626.00	19,512.00	
MX-D15Di-Sec	Day sensor, Super Wide Angle 22mm high resolution camera	23	930.00	21,390.00	
MX-D24M-Sec-D43	3.0 Megapixel Indoor/Outdoor Camera 45degree lens	6	940.00	5,640.00	
MX-M24M-Sec-D11	3.0 megapixel Indoor/Outdoor 180degree camera	1	1,260.00	1,260.00	
Door Station	Door stations with integrated camera	1	2,300.00	2,300.00	
MOB-POLE MOUNT	For SecureFlex wall mount 3 mm stainless steel, white	4	130.00	520.00	
MIL-XPCOBT	Milestone XProtect Corporate base server license	1	3,591.00	3,591.00	
MIL-XPCODL	XProtect Corporate Device License	44	372.00	16,368.00	
MIL-Y3XPCOBT	3 year PMA XProtect Corporate base license	1	1,405.00	1,405.00	
MIL-Y3XPCODL	PMA: Includes all product upgrades, updates, maintenance for corporate device	44	150.00	6,600.00	
BOSS-ADMIN	Basic License providing administrator access and two concurrent users.		995.00	995.00	
Network Switch	40 POE gig ports and 4 SFP ports with 3 year extended warranty	2	2,340.00	4,680.00	
Network Switch	20 POE gig ports and 6 SFP ports with 3 year extended warranty	1	1,160.00	1,160.00	
Network Jumpers	Fiber Jumpers lifetime warranty	12	86.00	1,032.00	
Network Firewall	750Mbps thruport firewall and one support	1	2,340.00	2,340.00	
Fiber Termination	Fiber termination	3	1,030.00	3,090.00	
Misc. Hardware	Includes all cabling, miscellaneous hardware, and connectors/ Fiber	1	1,680.00	1,680.00	
Network Monitor	Comprehensive network monitor with 500 sensors and 3 year tech support	1	9,600.00	9,600.00	
PHONE #	FAX #	WEB SITE	SALES TAX (9.25%)		
			<b>TOTAL</b>		

This proposal may be withdrawn by us if not accepted within 30 days. Page 1



# ESTIMATE

**ODIN SYSTEMS INC. CA**  
 3047 UNIVERSITY AVE. STE. 302  
 SAN DIEGO, CA 92104

DATE	ESTIMATE #
4/9/14	1140



BILL TO:
San Leandro Police Department Att: Greg Lemmon 901 East 14th Street San Leandro, CA 94577

TERMS	PROJECT
Net 30	PD/ City Hall Phase 1

ITEM	DESCRIPTION	QTY	COST	TOTAL
ODIN-CLSR11-5	Odin Systems standard range wireless camera station w/ 8hr battery backup, filtration and cooling system	2	4,583.00	9,166.00
Pre Config	Manufacturing, Assembly, and testing hardware	36	150.00	5,400.00
Installation	Installation of hardware/ working with other vendors to provide a proper installation	90	170.00	15,300.00
Programming	Software and hardware programming	40	190.00	7,600.00
Travel	Travel and per diem Government rate for the	24	160.00	3,840.00

PHONE #	FAX #	WEB SITE	SALES TAX (9.25%)	\$10,610.21
			<b>TOTAL</b>	\$156,705.21

This proposal may be withdrawn by us if not accepted within 30 days. Page 2

## EXHIBIT C

### INDEMNIFICATION

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.