March 6, 2017

VIA ECF

Hon. Pamela K. Chen United States District Judge United States District Court for the Eastern District of New York 225 Cadman Plaza East Brooklyn, NY 11201

Re: Raza et al. v. City of New York et al., No. 13-cv-3448 (PKC) (JO)

Dear Judge Chen,

The parties in this matter write to update the Court on developments concerning the parties' proposed settlement. As the Court knows, in January 2016, the parties filed a joint motion seeking entry of a settlement stipulation and order (the "Stipulation"). *See* ECF 121 & 121-1. The Stipulation was the product of settlement negotiations conducted jointly with the parties in *Handschu v. Special Services Division*, 71-cv-2203 (CSH) (S.D.N.Y.), a class action in which there is a consent decree and an accompanying set of court-ordered Guidelines for Investigations Involving Political Activity (the "Handschu Guidelines") by the NYPD.

As described in the Stipulation, the parties' proposed settlement terms in this case included modifications to the Handschu Guidelines. Those modifications were subject to approval by the court in *Handschu*, and the parties' proposed settlement in this matter was contingent upon that approval.

In October 2016, the *Handschu* court declined to approve the proposed modifications to the Handschu Guidelines, explaining that the parties should give consideration to agreeing upon three additional points. *See Handschu*, 2016 WL 7048839, at *19 (S.D.N.Y. Oct. 28, 2016). The court further stated that, if the parties in *Handschu* were willing to agree on terms that included those considerations, in words or substance, the court would approve the revised settlement as fair and reasonable.

After extensive negotiations, the parties in this matter and in *Handschu* have now jointly reached agreement on terms that we believe address the considerations identified by the court in *Handschu*. These terms are set forth in the proposed Revised Handschu Guidelines, attached hereto as Exhibit A, which were filed with the court in *Handschu* a short while ago today. Exhibit A incorporates two documents: the first is a blackline comparing the proposed Revised Handschu Guidelines to the parties' 2016 proposal; the second is a blackline comparing the proposed Revised Handschu Guidelines with the Handschu Guidelines as adopted in 2003.

The parties respectfully request that when the time comes for the Court to consider the parties' joint motion seeking entry of a settlement stipulation and order, *see* ECF 121, the Court consider the attached Exhibit A in lieu of the Exhibit A to the parties' proposed Stipulation. *See* ECF 121-2. Once the court in *Handschu* arrives at a decision concerning the proposed Revised Handschu Guidelines, we will expeditiously write to update the Court again.

Respectfully submitted,

Counsel for Defendants

Zachary W. Carter Corporation Counsel of the City of New York

By: <u>s/Peter G. Farrell</u>

Peter G. Farrell Deputy Division Chief 100 Church Street New York, NY 10007 T: (212) 356-3532 Counsel for Plaintiffs

By: s/Hina Shamsi

Hina Shamsi Ashley Gorski Patrick Toomey American Civil Liberties Union Foundation 125 Broad Street, 18th Floor New York, NY 10004 T: (212) 549-2500 F: (212) 549-2654

Ramzi Kassem Tarek Ismail Naz Ahmad CLEAR Project Main Street Legal Services, Inc. CUNY School of Law 2 Court Square Long Island City, NY 11101 T: (718) 340-4558 F: (718) 340-4478

Arthur N. Eisenberg Beth Haroules New York Civil Liberties Union Foundation 125 Broad Street, 19th Floor New York, NY 10004 T: (212) 607-3300 F: (212) 607-3318

Hector Gallegos Morrison & Foerster LLP 2000 Pennsylvania Avenue, NW Suite 600 Washington, D.C. 20006 T: (202) 887-1500 F: (202) 887-0763 Case 1:13-cv-03448-PKC-JO Document 126 Filed 03/06/17 Page 3 of 3 PageID #: 2558

Kyle Mooney Adam Hunt Morrison & Foerster LLP 250 West 55th Street New York, NY 10019 T: (212) 468-8000 F: (212) 468-7900