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CITY OF OAKLAND



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Office of the City Attorney
Barbara J. Parker
City Attorney

March 6, 2012

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HONORABLE CITY COUNCIL
Oakland, California

Subject: Oakland Police Officers' Association v. City of Oakland
Alameda Superior Court Case No. RG09437562
Our File No. X03308 (Oakland Police Department)

President Reid and Members of the City Council:

Pursuant to §401 of the Charter, the City Attorney has prepared a resolution approving the settlement of the above-captioned matter.

This action arises from the enactment of Ordinance No. 12908, which was intended to broaden the scope of the City's longstanding anti-nepotism/anti-fraternization policies and provide a means for enforcing those policies. The Oakland Police Officers' Association has filed an action in Alameda Superior Court, contending that the City improperly adopted the Ordinance without first meeting and conferring with the Association, in violation of the Meyers-Milias-Brown Act (Gov. Code § 3500, *et seq.*). OPOA further alleges that the Ordinance impermissibly infringes upon its members' constitutional right to privacy. The City and the OPOA have reached an agreement pursuant to which the City agrees it will take no action to enforce the existing Ordinance. In addition, representatives from the City shall present a negotiated, revised anti-nepotism Ordinance to the City Council for approval and adoption. The matter was presented in Closed Session on February 1, 2011 and February 21, 2011.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

Attorney Assigned:
Outside Counsel

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RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF THE OAKLAND POLICE OFFICERS' ASSOCIATION V. CITY OF OAKLAND, ALAMEDA SUPERIOR COURT CASE NO. RG09437562, WHICH CHALLENGED THE CITY'S ENACTMENT OF ORDINANCE NO. 12908 (ANTI-NEPOTISM ORDINANCE) (OAKLAND POLICE DEPARTMENT)

WHEREAS, on December 9, 2008, the City Council enacted Ordinance No. 12908 ("the Ordinance"), which was intended to broaden the scope of the City's longstanding anti-nepotism/anti-fraternization policies and provide a means for enforcing those policies; and

WHEREAS, on February 23, 2009, the Oakland Police Officers' Association filed a lawsuit alleging that the City enacted the Ordinance without first meeting and conferring with the Association, in violation of the Meyers-Milias-Brown Act (Government Code § 3500 *et seq.*) and further alleges that the Ordinance impermissibly infringes upon its members' constitutional right to privacy; and

WHEREAS, the Oakland Police Officers' Association has agreed to dismiss the lawsuit in exchange for the City's agreement to suspend enforcement of the existing Ordinance and take further action to amend or repeal the existing Ordinance, subject to approval of the Oakland City Council, as full settlement of its claims against the City in this referenced action; it is hereby

RESOLVED: That, as directed following closed session discussion of this settlement on February 1, 2011, the City Attorney is authorized and directed to compromise and settle the case of Oakland Police Officers' Association v. City of Oakland, Alameda Superior Court Case No. RG09437562, City Attorney's File No. X3308, pursuant to the terms set forth above; and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps as may be necessary to effect said settlement.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, BROOKS, SCHAFF,
and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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