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2009 SEP 10 PM 6:59

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Dan Lindheim
City Administrator

(510) 238-3301

September 22, 2009

City Council
Oakland, California

President Brunner and Members of the City Council:

RE: Report and Resolution (1) Authorizing the City Administrator to Approve an Initial Salary for the Position of Chief of Police that Exceeds the Mid-Point of the Salary Range, as Required by Ordinance No. 12918 C.M.S., in Addition to the Incentives and Benefits Authorized by the Memorandum of Understanding between the City and the Oakland Police Management Association; (2) Approving a Three Year Term of Employment Between the City and the Chief of Police; (3) Approving a Sick Leave Bank of 480 Hours for the Chief of Police; (4) Approving an Additional Week of Vacation and Awarding Vacation Leave at the Commencement of Employment, for the Chief of Police; and (5) Approving a Relocation Assistance Allowance in the Amount of Ten Thousand Dollars (\$10,000)

The accompanying resolution authorizes the City Administrator to approve an initial salary for the position of Chief of Police that exceeds the mid-point of the salary range, as required by Ordinance No. 12918 CMS. It provides the new Chief the same terms and benefits as are afforded under the Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, effective July 1, 2006 through June 30, 2010, and as amended from time to time. In addition, it provides for a three year term of employment, a sick leave bank of 480 hours, one additional week of vacation per year with the first year's vacation accruals available up front, and a relocation assistance allowance in the amount of \$10,000.

FISCAL IMPACT

The base salary being offered to the new Chief of Police is \$221,739 per year, which is within the existing salary range (effective date July 3, 2004) for that position. The new Chief would

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also receive the educational incentives afforded under the Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, which are currently provided to Captains, Deputy Chiefs, and the Assistant Chief/Acting Chief. These include an additional 5% of base salary for each P.O.S.T. Management Certificate, Bachelors degree, and Masters degree. The total salary would be \$255,000, which is 10% above the amount currently received by the Assistant Chief.

ACTION REQUESTED OF THE CITY COUNCIL

The Council is requested to approve the attached resolution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dan Lindheim', written over a horizontal line.

Dan Lindheim
City Administrator

DRAFT

EMPLOYMENT AGREEMENT

This Agreement is made and entered into on _____, 2009, by the City of Oakland (City) and Anthony Batts (Batts). The City and Batts are referred to in the Agreement as the "parties."

WHEREAS, it is the desire of the City to retain the employment services and professional experience of Anthony Batts, the parties agree as follows:

Section 1. Position

The City agrees to employ Batts as Chief of Police, effective September __, 2009. The Chief of Police position is not classified and is not subject to the Oakland Civil Service Rules. Batts shall devote his full time and attention to rendering services to the City required by the position of Chief of Police and/or such other services as may be reasonably requested by the City. It is expressly understood and agreed that during the term of this Agreement, Batts will not be employed by, retained by, or represent any other person, entity or city, except as agreed to by the City Administrator.

Section 2. Salary, Incentives, Benefits and Relocation Assistance

Batts shall be paid an annual base salary of two hundred twenty-one thousand, seven hundred thirty-nine dollars (\$221,739.00). He shall receive self-improvement incentives, health, dental and life insurance, and retirement contributions consistent with those in the existing Memorandum of Understanding (MOU) between the City and the Oakland Police Management Association (OPMA), which may be modified by a successor MOU.

Batts shall receive two weeks of Executive Leave during the first year of his employment. Batts shall also receive a bank of 480 hours of sick leave. He shall receive four weeks of vacation leave each year, the first year of vacation leave to be awarded at the outset of his employment. He shall accrue all other leave in accordance with the provisions of the City's MOU with the OPMA, which may be modified by a successor MOU.

Batts shall receive a relocation assistance allowance of ten thousand dollars (\$10,000) to facilitate his relocation to the City.

Section 3. Termination of Employment and Severance

A. This employment Agreement shall be for a three-year term, effective September __, 2009 through _____, 2012. Notwithstanding any other provision of this agreement, the City Administrator may terminate Batts at any time with or without cause pursuant to City Charter Section 503. However, if Batts is terminated

without cause, it will constitute a material breach of this Agreement and he shall be entitled to receive the salary provided by this agreement for the balance of the contract term as damages, subject to his duty to mitigate damages.

B. Batts' employment shall terminate automatically upon his death. The City shall pay to Batts' beneficiaries or estate, as appropriate, the salary to which he is entitled pursuant to Section 2 as of the date of his death. After the payments called for in this section are made, the City's obligations under this Agreement shall end. This section shall not affect entitlement of Batts' estate or beneficiaries to death benefits under any benefit plan of the City.

Section 4. Interpretation of the Agreement – Arbitration

In the event of a dispute between Batts and City with respect to the interpretation of this Agreement or any alleged breach of this Agreement, which cannot be settled amicably by agreement of the parties, the dispute shall be submitted to a single arbitrator in the City of Oakland in accordance with the employment arbitration rules of the American Arbitration Association, and judgment upon the award shall be final, binding and conclusive and may be entered in the highest court having jurisdiction. The prevailing party in any arbitration pursuant to this paragraph shall be entitled to recover its reasonable attorney's fees and costs.

Section 5. Entire Agreement

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Batts for the 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, that are not contained in this Agreement; no other agreement, statement or promise not contained in this Agreement will be valid or binding.

Section 6. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

Section 7. Severability

If any part of this Agreement is determined to be invalid, unlawful or unenforceable, that part shall not be deemed to be part of this Agreement.

Section 8. Voluntary Execution

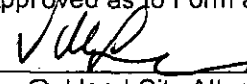
Batts acknowledges that he has read and understands the Agreement, is fully aware of its legal effect, and has entered into it freely and based on his own judgment.

Dan Lindheim Date
City Administrator
CITY OF OAKLAND

Anthony Batts Date

Approved as to Form and Legality:

Vicki Laden Date
Supervising Deputy City Attorney
CITY OF OAKLAND


Oakland City Attorney's Office

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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Resolution (1) Authorizing the City Administrator to Approve an Initial Salary for the Position of Chief of Police that Exceeds the Mid-Point of the Salary Range, as Required by Ordinance No. 12918, in Addition to the Incentives and Benefits Authorized by the Memorandum of Understanding between the City and the Oakland Police Management Association; (2) Approving a Three Year Term of Employment Between the City and the Chief of Police; (3) Approving a Sick Leave Bank of 480 Hours for the Chief of Police; (4) Approving an Additional Week of Vacation Each Year and Awarding Vacation Leave at the Commencement of Employment, for the Chief of Police, and (5) Approving a Relocation Assistance Allowance in the Amount of Ten Thousand Dollars (\$10,000)

WHEREAS, the City desires the services of a highly qualified Chief of Police to address the serious crime issues it confronts; and

WHEREAS, to retain the services of a highly qualified candidate capable of effective management of the Oakland Police Department the City Administrator must exceed the authority conferred by Ordinance No. 12918 by: setting an annual base salary for the Chief of Police higher than the mid-point but within the salary range for the Chief of Police, and offering a three-year term of employment, a sick leave bank of 480 hours and an additional week of vacation each year in excess of that authorized by the Memorandum of Understanding (MOU) between the City and the Oakland Police Management Association (OPMA), and awarding vacation leave at the commencement of the Chief's employment by the City; now, therefore be it

RESOLVED: That the City Administrator may offer a base salary of two hundred twenty-one thousand, seven hundred thirty-nine dollars (\$221,739.00), which is higher than the mid-point of the salary range, to the Chief of Police, in addition to the incentives and benefits authorized by the MOU between the City and the OPMA, and be it

RESOLVED: That the City Administrator may offer a three year term of employment; and be it

RESOLVED: That the City Administrator may offer a sick leave bank of 480 hours and an additional week of vacation each year in excess of that authorized by the MOU between the City and the OPMA, and may award vacation leave at the commencement of the Chief of Police's employment by the City; and be it

FURTHER RESOLVED: That the City Administrator may offer a relocation assistance allowance in the amount of ten thousand dollars (\$10,000) to the Chief of Police.

In Council, Oakland, California, _____.

Passed By The Following Vote:

AYES- KERNIGHAN, NADEL, QUAN, DE LA FUENTE, BROOKS, REID, KAPLAN, AND
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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