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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT

2009 OCT 15 PM 3:23

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Gerald A. Simon, Fire Chief
DATE: October 27, 2009

RE: Report and Resolution Authorizing the City Administrator to Approve the Fire Chief and/or His Designated Representative to Access Summary Criminal History Information of Oakland Fire Department Sworn Personnel for Emergency Medical Technician Licensing and Certification Purposes as Required by Adoption of Assembly Bill 2917 (Torrico) During the 2007-2008 Session, Which Amended Sections of the Health and Safety Code Regarding Emergency Medical Services Personnel

SUMMARY

Staff requests that the City Council receive the report and approve the Resolution authorizing the City Administrator to approve the Fire Chief and/or his designated representative to access summary criminal history information of Oakland Fire Department (OFD) sworn personnel for EMT licensing and certification purposes as required by the adoption of Assembly Bill 2917(Torrico) during the 2007-2008 session, which amended sections of the Health and Safety Code regarding emergency services personnel.

AB 2917 (Torrico) requires that beginning July 1, 2010, all Emergency Medical Technicians (EMT's) have a California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) background check. The Bill also requires that certifying agencies receive subsequent arrest notification from DOJ. If approved, arrest notifications will be received by the Fire Chief and/or his designated representative and appropriate action will be initiated. Accordingly, staff is working to establish and revise policies so that the City of Oakland is in compliance with the requirements of AB 2917 and the Health and Safety Code as amended.

FISCAL IMPACT

The potential costs associated with revising OFD policies to comply with AB 2917 and the Health and Safety Code range from \$10,000 to \$200,000 or more. The range is broad because there are multiple variables, the most significant being the cost of the equipment to make the identification cards, which can be up to \$150,000. Staff is researching options to reduce costs including the possibility of using equipment currently owned by the City or neighboring jurisdictions, applicant fees being paid from other sources, waivers, etc. Staff is currently researching the costs and possibility of waivers and/or reimbursement. If the City must fund total or partial costs, they will be paid using Measure N funds.

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BACKGROUND

The City of Oakland Fire Department has 504 positions represented by Local 55. Article 2.1.1 of the current Memorandum of Understanding between the City of Oakland and International Association of Firefighters Local 55 requires that all bargaining members maintain a valid Emergency Medical Technician Certificate that meets the standards of the California Emergency Medical Services Authority and the National Registry of Medical Technicians as a condition of employment.

The City of Oakland Fire Department is an approved EMT-I certifying authority. As such, it is authorized to certify and recertify fire safety personnel who successfully complete approved EMT-I courses, refresher courses or continuing education units that comply with State designated standards. Such authority is granted by Alameda County as the Local County Emergency Medical Services Agency (LEMSA) under the provisions of the California Code of Regulations Title 22, Division 9, Chapter 2, Sections 100057 and 100058. As a certifying authority, OFD is required to comply with AB 2917 and the California Health and Safety Code. Consequently, all OFD policies related to certification and re-certification and employment of EMT's must be revised to comply with AB 2917 and the Health and Safety Code on or before July 1, 2010.

KEY ISSUES AND IMPACTS

AB 2917 allows for EMT's to be grandfathered into the system if they meet the following conditions:

- 1) Individual must have received a DOJ background check
- 2) Criminal background check must include subsequent arrest notification
- 3) Employer must certify to the EMS Authority that the individual had a criminal background check which includes subsequent arrest notification and that the individual:
 - a. Has not committed any sexually related offense specified under Section 290 of the Penal Code;
 - b. Has not been convicted of murder, attempted murder, or murder for hire;
 - c. Has not been convicted of two (2) or more felonies;
 - d. Is not on parole or probation for any felony.

Current hiring practice for firefighters includes a background check. However, because the law did not previously require a DOJ background check, it has not been part of the pre-employment investigation. Consequently, approximately 400 employees will be subject to the process in order to comply with AB 2917. OFD staff will work with the City Attorney and Human Resources to address the potential issues associated with the post-employment DOJ background check.

While staff doesn't anticipate that any current employee will fail the background check, OFD will facilitate meetings with Local 55, HRMS, City Attorney and Risk Management to discuss

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how to proceed in the event an employee fails. A Request for Proposal (RFP) was recently conducted for pre-employment background investigations. The scope of work under the new contract will be updated to include the DOJ and FBI criminal background checks.

Under the Bill, the certifying agency shall consider a person who has been convicted of a felony or misdemeanor involving moral turpitude ineligible for licensing or certification; except that such conviction may be disregarded if it is determined that mitigating circumstances exist or that the conviction is not related to the employment or license or certification in question. Therefore, OFD staff will work with the City Attorney and Human Resources to revise all policies related to licensing and certification to comply with AB 2917.

POLICY DESCRIPTION

AB 2917 requires that beginning July 1, 2010 all EMT's have a California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal background check. AB 2917 also requires that certifying agencies receive subsequent arrest notifications from DOJ. To comply with the law, the City of Oakland must submit an approved Resolution establishing the need for receiving FBI background checks. The City must also apply to the DOJ to receive DOJ criminal background checks, FBI criminal background checks and DOJ subsequent arrest notifications.

The Oakland Fire Department will revise its policies for certifying EMT's to comply with the legal requirements of AB 2917. New employees will be subject to DOJ and FBI criminal background checks. Moreover, current employees will be required to submit a live scan application as part of the DOJ and FBI criminal background investigation process as required by the law.

SUSTAINABLE OPPORTUNITIES

Economic: There are no direct economic opportunities associated with this report.

Environmental: There are no direct environmental opportunities associated with this report.

Social Equity: No direct social equity opportunities have been identified.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability and senior citizen access issues associated with this report.

RECOMMENDATION(S) AND RATIONALE

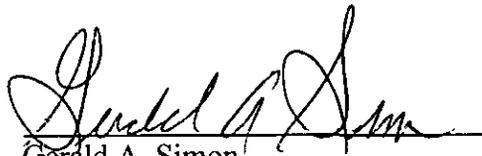
Staff recommends that the Council accept the report and approve the resolution authorizing the City Administrator to approve the Fire Chief and/or his designated representative to access summary criminal history information of Oakland Fire Department (OFD) sworn personnel for EMT licensing and certification purposes as required by the adoption of Assembly Bill 2917(Torrico) during the 2007-2008 session, which amended sections of the Health and Safety Code regarding emergency services personnel.

Approval of the Resolution allows OFD to comply with state law in order to maintain its status as a certifying authority. As a certifying authority OFD is able to ensure that fire personnel meet conditions of employment and sustain the high quality of EMT services provided to the Oakland community.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council accept the report and approve a resolution authorizing the City Administrator to approve the Fire Chief and/or his designated representative to access summary criminal history information of Oakland Fire Department (OFD) sworn personnel for EMT licensing and certification purposes as required by the adoption of Assembly Bill 2917(Torrico) during the 2007-2008 session, which amended sections of the Health and Safety Code regarding emergency services personnel.

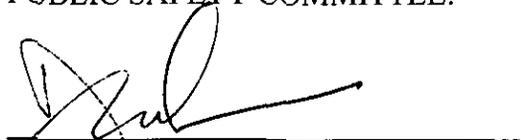
Respectfully submitted,



Gerald A. Simon
Fire Chief

Prepared by:
Nina S. Morris, Assistant to the Director
Office of the Fire Chief

APPROVED AND FORWARDED TO THE
PUBLIC SAFETY COMMITTEE:



Office of the City Administrator

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

2009 OCT 15 11:32 AM
RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO APPROVE THE FIRE CHIEF AND/OR HIS DESIGNATED REPRESENTATIVE TO ACCESS SUMMARY CRIMINAL HISTORY INFORMATION OF OAKLAND FIRE DEPARTMENT SWORN PERSONNEL FOR EMERGENCY MEDICAL TECHNICIAN LICENSING AND CERTIFICATION PURPOSES AS REQUIRED BY ADOPTION OF ASSEMBLY BILL 2917 (TORRICO) DURING THE 2007-2008 SESSION, WHICH AMENDED SECTIONS OF THE HEALTH AND SAFETY CODE REGARDING EMERGENCY MEDICAL SERVICES PERSONNEL

WHEREAS, Assembly Bill 2917 (Torrico) was adopted during the 2007-2008 session and amends the Health and Safety Code regarding emergency medical services personnel; and

WHEREAS, the City of Oakland Fire Department is an approved Emergency Medical Technician I certifying authority within the provisions of California Code of Regulations, Title 22, Division 9, Chapter 2, Sections 100057 and 100058; and

WHEREAS, Penal Code Sections 11105(b) (11) and 13300 (b) (11) authorizes cities to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b) (11) authorizes cities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation ; and

WHEREAS, Penal Code Sections 11105(b) (11) and 13300(b) (11) require the City Council of a City to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes; now, therefore be it

RESOLVED: that the City of Oakland is hereby authorized to access state and federal level summary criminal history information for employment, licensing or certification of sworn personnel for emergency medical technician, and may not disseminate information to a private entity; and be it

FURTHER RESOLVED: That the City of Oakland shall consider a person who has been convicted of a felony or misdemeanor involving moral turpitude ineligible for licensing or certification; except that such conviction may be disregarded if it is determined that mitigating circumstances exist or that the conviction is not related to the employment or license or certification in question.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California