



CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

R-38

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-6711 • FAX (562) 570-6583

GERALD R. MILLER
CITY MANAGER

April 3, 2007

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to enter into an employment agreement with Anthony W. Batts, Chief of Police.

Chief of Police Anthony W. Batts recently requested that the City consider entering into an employment agreement with him so as to provide assurance to Mr. Batts of the City's long-term commitment to retain him as Chief of Police.

Although employment agreements for City management staff are somewhat rare in our City -- I believe the City Manager and the Executive Director of the Harbor Department are currently the only City employees who have been provided with such agreements -- I have learned that cities do, from time to time, extend such arrangements to key personnel such as chiefs of police, particularly when there are transitions contemplated in senior City management. In fact, I believe there are no fewer than 96 chiefs of police throughout California who have been provided employment agreements by their cities.

As you know, Chief Batts has served this community exceptionally well throughout his career and certainly since the Fall of 2002 when I first appointed him to his current position. During each successive year, Chief Batts has led the Long Beach Police Department with distinction and he has meaningfully contributed to annual reductions in violent crime, the single highest priority of this and previous City Councils.

The Employment Agreement attached specifies the duties, term, severance and other provisions negotiated between the City Manager and Chief Batts and is presented for your approval.

I strongly believe retaining Chief Batts over the long-term is of substantial benefit to the City of Long Beach, Long Beach Police Department and community overall and, moreover, that he has earned this unique consideration from the City of Long Beach.

This item was prepared in consultation with City Attorney Robert E. Shannon.

Respectfully submitted,

Gerald R. Miller
City Manager

1 AGREEMENT

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3 THIS AGREEMENT is made and entered this 3rd day of April, 2007, by
4 and between the CITY OF LONG BEACH, a municipal corporation ("City"), and
5 ANTHONY W. BATTS ("Police Chief") pursuant to these terms and conditions:

6 WHEREAS, the City and Police Chief desire to incorporate certain
7 conditions of employment, working conditions and benefits of the Police Chief into a
8 written agreement; and

9 WHEREAS, Police Chief is willing to work as Police Chief of said City
10 under the terms and conditions reflected herein.

11 NOW, THEREFORE, in consideration of the mutual covenants herein
12 contained, the parties agree as follows:

13 1. Duties. City hereby agrees to employ Anthony W. Batts as Police
14 Chief of the City of Long Beach, California, to perform all functions and duties as
15 specified by law and ordinance, and to perform such other duties as may be assigned
16 by the City Manager.

17 2. Term.

18 A. This Agreement shall commence on the 3rd day of April,
19 2007, and shall extend to April 3, 2012, with the option for a two-year extension at the
20 end of the initial term. This Agreement may be amended by mutual agreement in
21 accordance with Subsection B of Section 4 of this Agreement.

22 B. Notwithstanding any provision of this Agreement to the
23 contrary, Police Chief expressly acknowledges and agrees that he is an "at-will"
24 employee and that the City Manager may exercise his/her uncontrolled discretion to
25 remove Police Chief at any time and under any circumstance, subject only to the
26 provisions set forth in Subsections A and B of Section 3 of this Agreement.

27 C. Nothing in this Agreement shall prevent, limit or otherwise
28 interfere with the right of Police Chief to resign at any time from his position with City,

1 subject only to Subsection C of Section 3 of this Agreement.

2 3. Termination and Severance Pay.

3 A. If Police Chief is terminated from employment of City during
4 said term for any reason except as expressly provided herein by this Agreement, Police
5 Chief shall be entitled to lump sum severance pay in an amount equal to six (6) months
6 salary based upon the annual salary of Police Chief at the time of termination. In
7 addition, City will pay off Police Chief's accumulated sick leave time at Police Chief's
8 annual salary at the time of termination.

9 B. Police Chief shall not be entitled to severance pay in the
10 event he is terminated for cause. For purposes of this Agreement, cause shall be
11 deemed to include: a willful breach of duty or habitual neglect by the Police Chief in the
12 course of his employment; the commission of any act of moral turpitude by the Police
13 Chief; or the Police Chief's legal disqualification from office. For purposes of resolving
14 any dispute regarding whether the severance payment has been properly denied, City
15 shall have the burden of proving by a preponderance of evidence that Police Chief
16 engaged in a willful breach of duty, habitual neglect, the commission of an act of moral
17 turpitude or was legally disqualified.

18 C. If Police Chief elects to resign his position with City, he shall
19 give the City Manager a minimum of ninety (90) days' notice; and he shall not be
20 entitled to severance pay.

21 4. General Provisions.

22 A. This Agreement constitutes the entire understanding
23 between the parties and supersedes all other agreements, oral or written, with respect
24 to the subject matter herein.

25 B. This Agreement shall not be amended except in a written
26 amendment which expressly refers to this Agreement, is signed by the parties and
27 authorized by a vote of Council.

28 C. This Agreement shall be governed by and construed in

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 accordance with the laws of the State of California. Both parties shall comply with all
2 laws, ordinances, rules, regulations and the City Charter with respect to the subject
3 matter of this Agreement.

4 D. If there is any legal proceeding between the parties to
5 enforce or interpret this Agreement or to protect or establish any rights or remedies
6 hereunder, the prevailing party shall be entitled to its costs and expenses, including
7 reasonable attorney's fees and court costs (including appeals).

8 E. The provisions of this Agreement are severable and, if any
9 provision or any portion of this Agreement is held to be unconstitutional, invalid, or
10 unenforceable by a court of law, the remainder of this Agreement shall be severed and
11 shall be enforced as severed.

12 F. This Agreement is not intended or designed to or entered
13 into for the purpose of creating any benefit or right for any person or entity of any kind
14 that is not a party to this Agreement.

15 G. The parties agree and acknowledge that this Agreement
16 accurately represents their mutual understanding of the employment of the Police Chief
17 and is valid and binding on the parties hereto.

18 5. Notices. Notices hereunder shall be in writing and personally delivered
19 or deposited in the U.S. Postal Service, first class, postage prepaid, addressed as
20 follows:

21 City: City Manager
22 City of Long Beach
23 333 West Ocean Boulevard, 13th floor
Long Beach, California 90802

24 Police Chief: Anthony W. Batts
25 Police Chief
26 City of Long Beach
400 West Broadway, 3rd floor
Long Beach, California 90802

27 Notice shall be deemed given as of the date of personal delivery or as of
28 the date of deposit in the mail.

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IN WITNESS WHEREOF, the parties hereto have caused this document to be executed, in duplicate, with all of the formalities required by law.

CITY OF LONG BEACH, a municipal corporation

_____, 2007

By _____
City Manager

"City"

_____, 2007

Anthony W. Batts

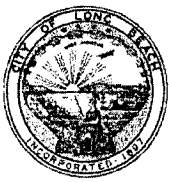
"Police Chief"


The foregoing Agreement is hereby approved as to form on _____, 2007.

ROBERT E. SHANNON, City Attorney

By: _____

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200



Date: March 26, 2007
To: Honorable Mayor and City Council
From:  Gerald R. Miller, City Manager
Subject: Employment Agreement With Chief of Police Anthony W. Batts

On February 13, 2007, I agendaized a City Council item to authorize the City Manager to enter into an employment agreement with Anthony W. Batts, Chief of Police. Chief Batts requested that the City consider entering into such an agreement to provide an assurance of the City's long-term commitment to retain him as Chief. At that time, however, I felt it necessary to withdraw the item to allow more time to fully develop and clarify the employment agreement proposal. The following is intended to provide you with additional information pertaining to the benefits of that agreement.

Background

Since his appointment in October 2002, Chief Batts has admirably led the Long Beach Police Department (LBPD). A 26-year police veteran, he has consistently exhibited strong leadership, both in the heroism that has become representative of the department, as well as in crime reduction. Within a week or so of his promotion to Chief of Police, the LBPD handled the largest freeway traffic accident in recent memory along the 710 Interstate Freeway and arrested the Belmont Shore Rapist after he had terrorized our community for seven years. During Chief Batts' tenure, murders have been reduced by 42 percent in Long Beach. Since 2002, violent crimes have fallen by 5.4 percent, and overall crime by more than 15 percent.

The Chief has stabilized the LBPD. Since 1994, the average tenure for a Chief of Police for Long Beach was a brief 3 years, followed by retirement. Chief Batts has led the Police Department for more than 4 years. The importance of this stability is reinforced when one considers the scope of responsibility the Chief of Police has to manage the largest City Department, employing approximately 1,500 employees, with a \$183 million annual budget.

Chief Batts reorganized and refocused the Police Department to better address violent crimes and new threats in Long Beach. He emphasized staffing for Patrol "Calls For Service," created a Gangs and Violent Crimes Division, established monthly crime meetings, and enhanced technology to focus on real-time crime data. The mission of the Long Beach Police Department has also grown with contract services to Long Beach City College, the Port of Long Beach, Long Beach Unified School District, Long Beach Transit, Long Beach Airport, and Park Rangers. Chief Batts has also lead homeland security efforts with the Office of Counterterrorism and managed Department of Homeland Security grant funding, equipment, and training.

Industry Demographics

Last month, the California Police Chiefs Association (CPCA) reported that over 44 percent (96 of 217 reporting) of member cities have employment agreements with their Police Chiefs. Cities with Police Chief employment agreements include; Los Angeles, San Francisco, Fresno, Oakland, Riverside, and Huntington Beach, just to name a few of the larger jurisdictions. It was cited that the increased utilization of employment agreements is intended to address the issue that many Deputy Police Chiefs (or the equivalent second-in-command) are not applying for the top position of Chief because of their concerns with the lack of job security. Additionally, the top performers competing for Police Chief positions are in high demand and they can more commonly command an agreement that specifies the terms of employment and termination.

It was also reported that since calendar year 2000, over 85 percent of municipal police departments have experienced, or are currently experiencing, turnover in the Police Chief position and over 50 percent have chief's with less than 5 years experience in that role. Turnover in this top position can create issues with organizational morale, stability, and focus.

Employment Agreement Components

Consistent with employment agreements commonly utilized in the public sector, the proposed agreement with Chief Batts specifies the duties, term, termination, and severance provisions. The Police Chief is currently, and will continue to be, an "at-will" employee. The City Manager will still have the sole discretion to remove the Police Chief at any time from his position.

An important component of the agreement is the termination and severance provision. It is proposed that if the Police Chief were terminated from employment for any reason other than cause, then he would be entitled to six (6) months salary and any earned, accumulated sick leave. This provision is mutually beneficial because it provides both parties, in advance, the basis of the employment relationship. It also provides the Police Chief a source of security, via the severance provision, should he be removed from office for any reason other than cause.

Conclusion

As stated in the February 13 City Council staff report, I strongly believe retaining Chief Batts over the long-term is of substantial benefit to the City of Long Beach, Long Beach Police Department, and community overall and, moreover, that he has earned this unique consideration from the City of Long Beach. Given the competitive marketplace that the City finds itself with respect to retaining a high-performing, nationally respected Police Chief, I feel that extending an employment agreement to Chief Batts is a prudent step for the City. It offers the

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added benefit of not only providing a sense of security for the current Police Chief, but also allows time for his management team to develop into the next generation of leaders in that organization.

I look forward bringing the proposed agreement to the City Council for your consideration on Tuesday, April 3, 2007.

A table summarizing the components of the originally proposed employment agreement versus the currently proposed agreement is attached for your review. Should you have any questions or concerns, please feel free to contact me at 570-6916. Thank you for your thoughtful consideration of the request.

GRM:mm

Attachment

cc: Robert E. Shannon, City Attorney
Christine F. Shippey, Assistant City Manager
Reginald I. Harrison, Deputy City Manager
Suzanne R. Mason, Deputy City Manager
Anthony W. Batts, Chief of Police

Employment Agreement Proposed for Chief Batts

Agreement Components	Previously Proposed	Currently Proposed
Term	Open ended	Five years with opportunity to extend
Salary	5% annual increase follows evaluation	Removed from Agreement
Vehicle	Provided City vehicle 24/7	Removed from Agreement
Severance	Six months if terminated without cause	Six months if terminated without cause
Notice of Resignation	90 days*	90 days*
Accountability	"At Will" employee of the City Manager	"At Will" employee of the City Manager

* Currently Chief could resign with only customary 2 weeks notice.