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14 THE CITY OF OAKLAND, CALIFORNIA

15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

17 ANNE KIRKPATRICK, an individual,
18 Plaintiff,
19 v.
20 THE CITY OF OAKLAND, CALIFORNIA,
a public corporation,
21 Defendant.

Case No. 3:20-cv-05843-JSC

**DECLARATION OF ELIZABETH
SCHAAF IN SUPPORT OF DEFENDANT
THE CITY OF OAKLAND,
CALIFORNIA’S MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, PARTIAL SUMMARY
JUDGMENT**

Date: March 31 2022
Time: 9:00 a.m.
Crtm.: Courtroom E, 15th Floor
Judge: Hon. Jacqueline Scott Corley

Action Filed: August 19, 2020
Trial Date: May 16, 2022

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1 I, Elizabeth Schaaf, declare as follows:

2 1. I am proud to be the Mayor of Oakland, California, my hometown. I was sworn in
3 as Mayor in 2015, and my second term will expire at the end of this year. I have personal
4 knowledge of the facts set forth herein. If called as a witness, I could and would competently
5 testify to the matters stated herein. I submit this declaration in support of the City’s Motion for
6 Summary Judgment Or, in the Alternative, Partial Summary Judgment.

7 2. As 2019 progressed, I grew increasingly concerned about Chief Kirkpatrick’s
8 ability to effectively perform as the Oakland Chief of Police. In early June, 2019, Chief
9 Kirkpatrick’s friend, Deputy Director Virginia Gleason, sent an email to Jim Chanin, who along
10 with John Burriss is an attorney for the plaintiffs in *Allen v. City of Oakland*, the case that initiated
11 the Negotiated Settlement Agreement (the “NSA”). I hold both Mr. Burriss and Mr. Chanin in high
12 regard, and they have access to the Oakland Police Department in order to observe whether the
13 City is making progress under the NSA. Ms. Gleason sent Mr. Chanin a lengthy email that I
14 found to be unprofessional and unnecessarily insulting to Mr. Chanin. A copy of the exchange
15 between Mr. Chanin and Ms. Gleason is attached hereto as **Exhibit 12**. I asked Chief Kirkpatrick
16 about the exchange, and Chief Kirkpatrick told me she had approved the email Ms. Gleason sent.
17 I concluded that Chief Kirkpatrick had demonstrated poor judgment by not counseling
18 Ms. Gleason against sending the email.

19 3. As the Mayor, I regularly attend case management conferences in the *Allen* case in
20 order to speak to the Court and address any issues that have arisen under the NSA. The Chief of
21 Police typically attends as well and addresses the Court. In July 2019, the Federal Monitor Robert
22 Warshaw issued a report that moved two NSA tasks out of compliance, which reflected serious
23 concerns about the City’s progress towards implementing and maintaining necessary reforms. At
24 a case management conference the next month, the presiding judge, Judge Orrick, asked Chief
25 Kirkpatrick what she believed OPD’s biggest challenge to be. She responded with words to the
26 effect of: “the narrative.” I believe this response failed to recognize the serious concerns at issue,
27 and again, I grew concerned with Chief Kirkpatrick’s judgment.

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1 4. As 2019 progressed, I also became concerned that Chief Kirkpatrick's focus was
2 less and less on policing, and rather on disagreements with the Police Commission and the Federal
3 Monitor. I understood that she did not appreciate the way the Police Commission ran their
4 meetings, found them to be rude, and disagreed with their areas of focus. I found that, as 2019
5 went on, our regular check ins were typically focused on these interpersonal issues rather than on
6 the public safety issues facing Oakland and the Oakland Police Department. That shifted focus
7 concerned me.

8 5. On or around February 10, 2020, I had a meeting with Mr. Chanin and Mr. Burriss.
9 During the meeting, they expressed concerns about Chief Kirkpatrick's performance, and
10 Mr. Chanin informed me that he did not see how Chief Kirkpatrick could bring the City into
11 compliance with the NSA. I took seriously Mr. Chanin's concern that the City could not reach
12 compliance under Chief Kirkpatrick's leadership, given his critical role in the NSA.

13 6. On or about February 11, 2020, I had a meeting with Police Commission Chair
14 Regina Jackson and Commissioner Edwin Prather. I did not know in advance that the meeting
15 would concern the Chief of Police's employment. Chair Jackson and Commissioner Prather
16 surprised me by asking whether I would consider joining with the Police Commission to terminate
17 Chief Kirkpatrick's employment without cause, as we were empowered to do jointly under
18 Measure LL.

19 7. During that discussion, Chair Jackson and Commissioner Prather informed me that
20 the Police Commission was actively considering terminating Chief Kirkpatrick for cause, although
21 they had not yet done so. I inquired about the grounds but did not receive that information, and I
22 did not follow up because I did not need that information. I understood that the Police
23 Commission had the independent right to terminate for cause.

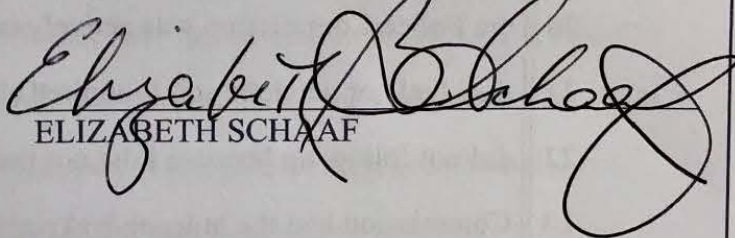
24 8. My role was to determine whether it was in the best interests of Oakland, and
25 consistent with my personal values, to join the Police Commission in terminating Chief
26 Kirkpatrick without cause. That was an individual decision, which I made by consulting the two
27 guiding questions I ask myself every time I am called to make a difficult decision for the City of
28 Oakland: (1) what is in the best long-term interests of the City of Oakland; and (2) how does this

1 decision serve my values of integrity and transparency. In February 2020, there was a critical
2 mass of key stakeholders in the City of Oakland (including the Federal Monitor, Mr. Chanin and
3 Mr. Burris, as well as Police Commissioners and community members) that had irreparably lost
4 confidence in Chief Kirkpatrick, so much so that I did not think it was possible for her to be an
5 effective Chief of Police any longer. Moreover, I believe it is in the best long-term interest of the
6 City of Oakland to be found in compliance with the tasks and spirit of the court-controlled NSA,
7 and it had become clear to me that that was unlikely to happen under Chief Kirkpatrick's
8 leadership, including because of Mr. Chanin's comment that he did not see how the City could get
9 into compliance under Chief Kirkpatrick. Those factors led me to conclude that it was in the best
10 long-term interests of the City of Oakland to separate from Chief Kirkpatrick.

11 9. In many ways, this was a difficult decision. I admired Chief Kirkpatrick's ability
12 to build the morale of police officers within OPD, and I believed she was genuinely committed to
13 reform. I was and remain grateful to her for her service to the City of Oakland. Nevertheless,
14 once it became clear to me that she could no longer serve effectively in the role of Chief of Police,
15 my decision was clear. On February 20, 2020, I joined with the unanimous Police Commission
16 and voted to terminate Chief Kirkpatrick's employment.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on this 24th day of February, 2022, at Oakland, California.

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22 ELIZABETH SCHAAF
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