CITY OF SAN LEANDRO

STAFF REPORT

APPROVED AND
FORWARDED
TO CITY COUNCIL

Stephen L. Hollister
Interim City Manager

DATE: December 11, 2008

TO: City Council

FROM: Stephen L. Hollister, Interim City Manager

SUBJECT PROJECT/PROJECT DESCRIPTION:

RESOLUTION APPROVING AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE SAN LEANDRO POLICE OFFICERS' ASSOCIATION (SLPOA) AND AUTHORIZING THE EXECUTION OF A SIDE LETTER AGREEMENT EXTENDING THE CONTRACT TERM TO 2010

BACKGROUND ANDRECOMMENDATION

The San Leandro Police Officers' Association (SLPOA) and the City have agreed to a settlement of the Greg Lemmon v. City of San Leandro action (U. S. District Court for the Northern District of California, Case No. C 06-07107) alleging violations of the Fair Labor Standards Act (FLSA). In connection with that settlement, the parties have agreed to an amendment to the current Memorandum of Understanding between the SLPOA and the City ("Side Letter") that includes an extension of the term of the current contract to 2010. The Side Letter Agreement was unanimously approved by the SLPOA general membership on December 9, 2008. It is recommended that the City Council adopt a resolution authorizing the Side Letter on the terms as described below.

SUMMARY

A complete copy of the Side Letter Agreement is attached to this report. What follows is a summary of the terms agreed to in the Side Letter between the City and the SLPOA.

Effective the first full pay period after Court approval of the settlement agreement:

- Twenty (20) minutes for donning and doffing of uniforms and gear will be rolled into the shifts of all uniformed officers and sergeants;
- Ten (10) minutes for line-up will be rolled into the shifts of all patrol officers and sergeants;
- Patrol Sergeants conducting line-up will be entitled to an additional twenty (20) minutes compensatory time for time spent preparing for each line-up; and
- Uniformed officers and sergeants assigned to Patrol and Traffic will no longer receive the $100 shift differential payment currently provided for in Section 8 of the MOU; effective January 1, 2010, sworn officers and sergeants assigned to

Investigations and Administrative Services will no longer receive the $100 shift differential.

In addition, the parties have agreed to extend the current MOU for one year, with the following additions and modifications, all effective January 1, 2010:

- Officers and sergeants will not receive an increase in base pay for 2010;
- Longevity pay will be increased as follows: officers and sergeants with 15 years of service will receive 2% of current base pay; 20 years of service will receive 3%; and 25 years of service will receive 4%;
- Officers and sergeants assigned to Patrol will receive an addition 3% of base pay; officers and sergeants assigned to graveyard shift will receive an additional 5% of base pay; and
- Officers and sergeants assigned to Investigations, Traffic, Administration, and Crime Prevention will receive an additional 3% of current base pay.

Should the Ninth Circuit Court of Appeal issue a ruling holding that donning and doffing time is not compensable, the City may impose a modified schedule to exclude time for donning and doffing.

Fiscal Impact: The net cost of the Side Letter MOU extension is approximately 1.7% of salary (approximately $200,000 annual cost) for Sergeants and Officers in 2010.

CONCLUSION

It is recommended that the City Council approve a resolution authorizing an amendment to the Memorandum of Understanding between the SLPOA and City and authorize the City Manager to execute the attached Side Letter Agreement on behalf of the City.

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2008-

RESOLUTION APPROVING AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE SAN LEANDRO POLICE OFFICERS' ASSOCIATION (SLPOA) AND AUTHORIZING THE EXECUTION OF A SIDE LETTER AGREEMENT EXTENDING THE CONTRACT TERM TO 2010

WHEREAS, the City of San Leandro (City) and the San Leandro Police Officers' Association (SLPOA) have entered into a Memorandum of Understanding (MOU) for the contract term of January 1, 2007 to December 31, 2009, as authorized by Resolution No. 2006-116.

WHEREAS, in connection with the settlement of litigation *Greg Lemmon v. City of San Leandro* (U. S. District Court for the Northern District of California, Case No. C 06-07107), the parties have agreed to an amendment to the MOU and Side Letter Agreement that extends the contract term to 2010, in addition to other terms.

NOW THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

The City Manager is authorized to execute the attached Side Letter Agreement on behalf of the City.

Introduced by Councilmember and passed and adopted this 15th day of December, 2008, by the following called vote:

Members of the Council:

AYES:

NOES:

ABSENT:

ATTEST: _____

Marian Handa, City Clerk

SIDE LETTER OF AGREEMENT
Between the City of San Leandro and San Leandro Police Officers' Association Re FLSA Issues and Extension of Memorandum of Understanding

The City of San Leandro ("City") and 83 current and former police officers and sergeants employed by the City have reached a settlement in a lawsuit alleging the City violated the Fair Labor Standards Act (FLSA) entitled *Lemmon v. City of San Leandro*, U.S. District Court, Northern District of California, Case No. C 06-07107. That settlement agreement is contingent on POA and City Council approval of this Agreement, and the Court's approval of the settlement.

The City and POA have met and conferred in good faith on the issues raised in the above-referenced lawsuit, and regarding a one-year extension of the current Memorandum of Understanding between the City and POA with effective dates January 1, 2007 to December 31, 2009 ("MOU").

The City and POA now hereby agree as follows:

FLSA / Lawsuit Related Issues

1. Effective the first full pay period following the Court's entry of an order approving the settlement agreement in the lawsuit referenced above, the schedules and compensation for certain patrol officers and patrol sergeants will be modified as follows:

a. Shifts: Shifts for patrol officers and patrol sergeants will include 20 minutes of compensable time for donning and doffing of uniforms and protective gear.

b. Donning and Doffing: Patrol officers and patrol sergeants required to don and doff uniforms and protective gear will have 10 minutes at the beginning of each shift and 10 minutes at the end of each shift to do so. The parties agree that 10 minutes will generally provide a reasonable amount of time in order to don and doff the required uniforms and protective gear.

c. Line-Up/Briefing: Patrol officers and patrol sergeants required to attend line-up shall do so following the 10 minute donning period discussed in section 1(b) above.

d. Compensatory Time for Patrol Sergeants: Patrol sergeants conducting line-up shall be entitled to 20 minutes of compensatory time-off as compensation for the time spent preparing for each line-up/briefing period. Time spent preparing for each line-up shall not exceed 20 minutes without prior authorization, and shall be spent at the station immediately prior to

the line-up. Officers or other sergeants substituting for a patrol sergeant and required to conduct line-up shall be entitled to the 20 minutes of compensatory time per line-up as set forth in this paragraph.

e. Assignment Differentials: Effective the first pay period after the Court enters an order approving this Agreement, uniformed sworn officers in the classifications of police sergeant and police officer assigned to the patrol and traffic divisions who are assigned for at least thirty (30) consecutive days to such a duty assignment, shall no longer receive an additional one hundred ($100) per month, as currently provided for in Section 8 of the MOU.

Effective January 1, 2010, sworn officers regularly assigned to the investigation division and sworn officers assigned to the administrative services unit will no longer receive a one hundred dollar ($100) per month differential while so assigned, as currently provided for in Section 8 of the MOU.

All other provisions of Section 8 of the current MOU shall remain in effect.

Extension of MOU

2. The City and the POA agree to extend the current January 1, 2007 – December 31, 2009 MOU to December 31, 2010, with the following additions and modifications:

a. Salary: Represented employees shall not receive an increase in base pay for calendar year 2010. As such, the monthly pay rates set forth in the 2009 SLPOA Salary Schedule in Appendix A shall also apply for calendar year 2010.

b. Longevity Pay: Longevity pay, described in Section 37 of the MOU, shall be increased as follows:

37.3 Effective January 1, 2010, Police Officers and Police Sergeants who have completed fifteen (15) years of continuous service with the City of San Leandro shall receive two percent (2%) of current base pay.

Effective January 1, 2010, Police Officers and Police Sergeants who have completed twenty (20) years of continuous service with the City of San Leandro shall receive three percent (3%) of current base pay.

Effective January 1, 2010, Police Officers and Police Sergeants who have completed twenty-five (25) years of continuous service with the City of San Leandro shall receive four percent (4%) of current base pay.

c. Shift Differential: Police officers and police sergeants assigned to work the patrol division and who work a regularly assigned shift during which at least 50% of the hours are between 1600 and 2400 hours shall receive an additional 3% of current base pay for the entire shift.

Police officers and police sergeants assigned to the patrol division and who work a regularly assigned shift during which at least 50% of the hours are between 2400 and 0700 hours shall receive an additional 5% of current base pay for the entire shift.

d. Assignment Differentials: Effective January 1, 2010, Section 8 of the current MOU, entitled Assignment Differentials, shall be modified as set forth in Section 1.e of this Agreement.

In addition, effective January 1, 2010, sworn officers in the classifications of police sergeant and police officer assigned to Investigations, Traffic, Administration and Crime Prevention shall receive an additional 3% of current base pay. A call-in procedure for the Investigation Division shall be agreed to between the Police Officers' Association and the Police Chief.

3. In the event that the Ninth Circuit Court of Appeals or the United States Supreme Court issues a decision holding that donning and doffing time is not compensable under the FLSA for law enforcement personnel, the City may impose a modified schedule to exclude time for donning and doffing. The City will meet and confer with the POA to the extent required by law concerning such a proposal before implementation.

4. The parties recognize that the City may need to impose changes to operations in the future to ensure there are no potential violations of the FLSA in the future. The City will meet and confer with the POA to the extent required by law concerning such a proposal before implementation.

5. The parties recognize and agree that this Agreement shall not be effective unless and until a) this Agreement is ratified by the POA and the individual Plaintiffs, b) this Agreement is approved by the San Leandro City Council and c) the Court enters an order approving the settlement in *Lemmon v. City of San Leandro*, U.S. District Court Case No. C 06-07107.

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Steve Hollister Interim City Manager City of San Leandro	Michael Sobek President San Leandro POA
Dated: _____, 2008	Dated: _____, 2008