



## **SIDE LETTER OF AGREEMENT**

Pursuant to California Government Code Section 3505.1

Between

The City of South Gate and

The South Gate Professional and Mid-Management Association  
Represented by Service Employees International Union Local 721

This Side Letter of Agreement (“Agreement”) between the City of South Gate (“City”) and the South Gate Professional and Mid-Management Association (“SGPMMA”) represented by Service Employees International Union Local 721 (“Union”)(collectively referred to as the “Parties”) is entered into with respect to the following and on the terms stated herein.

### **RECITALS**

**WHEREAS**, the Parties entered into a previous Memorandum of Understanding, Contract No. 3085, dated February 23, 2015, for the term July 1, 2014 through June 30, 2015 (“SGPMMA MOU”), representing the most recent Memorandum of Understanding between the Parties;

**WHEREAS**, the Parties entered into a Side Letter of Agreement dated February 23, 2015 stating that the Parties “agree to continue to meet and discuss FLSA-related subjects as they pertain to PMMA;”

**WHEREAS**, the Parties entered into an Amendment No. 1 to the SGPMMA MOU dated February 9, 2016 extending the term of the SGPMMA MOU through June 30, 2017, among other negotiated items;

**WHEREAS**, on June 26, 2017, the Parties commenced labor negotiations, including exchanging proposals and meeting and conferring towards reaching agreement on a successor SGPMMA MOU;

**WHEREAS**, the SGPMMA MOU expired at midnight on June 30, 2017 by its own terms;

**WHEREAS**, the Parties reached a Tentative Agreement on the deal points for a successor SGPMMA MOU covering the term July 1, 2017 through June 30, 2020 and providing that all terms and conditions of the SGPMMA MOU and its Amendment No. 1 thereto not otherwise addressed in the Tentative Agreement shall be maintained unless expressly modified by the Parties until a successor SGPMMA MOU is approved by City Council, with the Union ratifying the Tentative Agreement on November 27, 2017, and the City Council approving the Tentative Agreement on November 28, 2017;

**WHEREAS**, the Amended and Restated Tentative Agreement provides that the Parties “agree to a reopener to discuss the implementation of the change from exempt status to non-exempt status for affected SGPMMA members, including but not limited to, related issues of overtime calculations and right to administrative leave for the affected employees;”

**WHEREAS**, pending drafting and adoption of the successor SGPMMA MOU, the Parties continued to meet and confer and have reached a tentative agreement regarding the implementation of the change from exempt status to non-exempt status for affected SGPMMA members, including but not limited to, related issues of overtime calculations and right to administrative leave for the affected employees;”

**WHEREAS**, the Parties seek to have this Agreement memorialize their tentative agreement regarding the implementation of the change from exempt status to non-exempt status for affected SGPMMA-represented employees pending drafting and adoption of the successor SGPMMA MOU, which shall supersede and replace this Agreement;

**WHEREAS**, the Amended and Restated Tentative Agreement provides that the successor SGPMMA MOU shall contain a provision that complies with AB 119 and sets forth the procedures to be followed by the parties relative to new employee orientations and the SGPMMA’s right to information;

**WHEREAS**, the Parties seek to have this Agreement memorialize their tentative agreement regarding the AB 119 procedures to be in effect upon adoption of this Agreement and incorporated into the successor SGPMMA MOU, which shall supersede and replace this Agreement;

**WHEREAS**, this Agreement shall not become effective until accepted, approved, and adopted by the South Gate City Council per California Government Code Section 3505.1.

**NOW, THEREFORE**, and in consideration for the promises, waivers and releases contained herein, the Parties agree as follows:

#### **TERMS**

1. All of the recitals listed above are material provisions of this Agreement and are deemed true by the Parties and incorporated herein by this reference.

2. The City has changed the overtime exemption status under the federal Fair Labor Standards Act of 1938, as amended (“FLSA”), of certain bargaining unit positions from “exempt” to “non-exempt” in accordance with a recent outside FLSA audit done by the City.

3. In order to facilitate and ease the change in affected employee working conditions, the Parties have agreed to the following guidelines for any SGPMMA-represented employees whom the City changes their FLSA designation from overtime exempt to overtime non-exempt, which are intended to be incorporated into the successor SGPMMA MOU, which shall supersede and replace this Agreement:

A. Overtime Definition: Overtime means any time worked which exceeds 40 hours in a workweek. Paid time off shall be included in calculating the 40 hours.

- B. Authorization of overtime: Non-exempt employees should not work on an overtime basis without prior authorization. In the event that circumstances prevent obtaining the prior authorization, non-exempt employees shall notify their Director as soon as practical.
- C. Qualifying work: Non-exempt employees performing work on an overtime basis may provide such services using various means. Non-exempt employees may report to a City facility, but may also perform services off-site, depending on the circumstances, if approved by their Director. A non-exempt employee who provides off-duty service as pre-approved by their Director in response to a phone, e-mail or text request, shall record the actual time spent handling the call, e-mail or text and shall report that time, in increments of 15 minutes, as time worked in their workweek.
- D. Compensatory time: Overtime work is compensated at one and one-half times (1.5x) the non-exempt employee's regular rate as defined by the FLSA. Non-exempt employees may elect to receive payment for overtime work in the form of compensatory time off in lieu of the overtime cash payment. Employees may accrue up to 160 hours of compensatory time during the fiscal year but the balance will be automatically cashed out in the last pay period in June each year.
- E. Supplemental Leave: SGPMMA bargaining unit employees who are designated non-exempt by the City under the FLSA will not be eligible to receive the administrative leave or special administrative leave specified in the SGPMMA MOU starting effective July 1, 2018. Such non-exempt employees will instead be eligible to receive both overtime pay as described above and administrative leave of 20 hours per fiscal year for two fiscal years (FYs 2018/19 and 2019/20), after which time the right to accrue administrative leave and/or special administrative leave shall permanently expire.

4. In order to comply with AB 119, the Parties have agreed to the following procedures to be implemented upon City Council approval of this Agreement and then subsequently incorporated into the successor SGPMMA MOU, which shall supersede and replace this Agreement:

- A. Pursuant to AB 119, the City agrees to provide no less than 10 calendar days' notice to the Association in advance of any new employee orientation(s) and provide the Association access to the orientation(s). Orientation refers to any onboarding process, whether in person, online or through other means. In accordance with Government Code Section 3557, access shall be determined by mutual agreement between the City and the Association. Access could be effectuated by representational attendance or correspondence, although the parties' preference is generally correspondence over representational attendance. The Association shall advise the City reasonably in advance of any orientation as to the type of access requested.
- B. The City agrees, pursuant to AB 119, to provide the Association with the name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the City, and home

address of any newly-hired employee within thirty (30) days of the date of hire. The City also agrees to provide the Association with a list of the foregoing information for all bargaining unit employees at least once every 120 days at the Association's written request.

- C. Notwithstanding the foregoing, in accordance with Government Code Section 6254.3(a)(3), the City will not provide the Association with the home address or any phone number on file with the City of any employee performing law enforcement-related functions. For purposes of this MOU, "law enforcement-related functions" includes any City police department employee and any City code enforcement officer. In accordance with Government Code Section 6254.3(c), the City will not provide the Association with any home address, home telephone number, personal cellular telephone number, or personal email address of any employee who has made a written request to the City regarding non-disclosure of said information (except, with respect to personal email addresses, as may be necessary to comply with the Public Records Act).

**By their signatures below, the Parties' lawful representatives acknowledge the contents herein and that this Agreement is entered into the 26<sup>th</sup> day of June, 2018.**

**City of South Gate**

**South Gate Professional and Mid-Management Association**

\_\_\_\_\_  
Jackie Acosta, Director of Administrative Services

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Osie Harrell, President

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Nellie Cobos, Deputy Dir. of Admin. Svcs./HR&RM

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Johanna Monterroza, Vice-President

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Colin Tanner, City's Outside Labor Counsel

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Robert Hunt, SGPMMA's Outside Labor Counsel