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April 28, 2014

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VIA E-MAIL AND U.S. MAIL

Ben Rosenfield
Controller
City and County of San Francisco
City Hall, Room 316
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
E-Mail: ben.rosenfield@sfgov.org

Re: Proposed Cash Out of Excess Compensatory Time Balances
File No.: 039036

Dear Ben:

I write on behalf of the POA concerning the proposed Cash Out of Excess Compensatory Time Balances as outlined in Memoranda from your office, dated April 24, 2014 and sent to numerous members of the two POA-represented bargaining units. The POA is concerned about the contemplated action because it directly infringes specific terms in the POA's Memoranda of Understanding with the City.

The POA asks that the Controller's Office refrain from cashing out compensatory time balances for employees with the criteria described in more detail below, until such time as the City, the Police Department and POA representatives can further discuss this matter.

Your memorandum indicates that the Controller's Office and the Department of Human Resources (and I copy Micki Callahan and Martin Gran on this letter) have been working with all departments to identify and manage employee compensatory time balances "beyond the limits specified by the respective MOUs." In general, the POA has no quarrel with the City exercising rights exclusively delegated to it by the MOUs. However, it appears that errors have been made with respect to determining what the appropriate compensatory time balance limits are in the POA's MOUs (one for Unit P-1 and P2A and one for Unit P-2B). To that end, the attached letter (which has been redacted to protect the privacy of the employee concerned) shows that the

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employee in question purportedly has an "Excess Balance" of 120.75 hours above the "Compensatory Time Limit" of 300 hours.

But, the employee in question is in Unit P-1 and P-2A. He has had a Compensatory Time Balance of 420.75 hours since before June 30, 2010. Pursuant to MOU article III, section 2.B.1.b (paragraph 212), so long as that balance is below 480 hours it is NOT subject to the City's discretionary right to cash out compensatory time balances provided by article III, section 2.B.1.e (paragraph 215). If, hypothetically, this employee had a balance of 600 hours, then the City could have reduced that balance down to 480 hours, but because the time was accumulated by June 30, 2010 (except for promotion, etc.) the City cannot reduce his balance below 480 hours.

While the vast majority of POA employees affected only received this Memorandum over the weekend, POA representatives' phones have been literally ringing off the hook as a result of this proposed action. The POA believes that it affects multiple employees.

Our expectation is that the City will recognize its error with respect to employees similarly situated to the officer described above and refrain from moving forward. If a clarifying meeting is necessary, then the POA is fully committed to participating in that as soon as possible.

Our members deserve some assurance that the City will not move forward until this issue has been resolved collaboratively. Thus, while the POA would prefer to avoid litigating this issue, unless it receives the assurances requested above, it may be forced to move to enjoin any City action that would violate the MOU.

I understand that you are swamped with citywide collective-bargaining, as are Micki and Martin, but the POA hopes that you or a designee can address this issue at your earliest opportunity.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

GMA:jo

cc: Micki Callahan, Director of Human Resources
Martin R. Gran, Director of Employee Relations Division
Greg Suhr, Chief of Police

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Lyn Tomioka, Deputy Chief

David Shinn, Deputy Chief

Katherine Mahoney, Deputy City Attorney

Martin D. Halloran

POA Board of Directors c/o Martin Halloran

**MEMORANDUM****TO:****FROM:** Ben Rosenfield

Controller

DATE: April 24, 2014**SUBJECT:** Cash Out of Excess Compensatory Time Balances

The Controller's Office and Department of Human Resources have been working with all departments to identify and manage employee compensatory time balances beyond the limits specified by the respective MOUs. Notifications sent to departments and unions in January confirmed our intent to cash out excess balances as of the pay period ending April 25th. Automated enforcement of limits will start with the April 26 – May 9th pay period, and going forward employees will not be able to accumulate compensatory time balances beyond the MOU limits.

As of the pay period ending April 11th we show you have a compensatory time balance beyond the MOU limits. Please see below for balance information and estimated cash out amounts.

Data Reflective of Pay Period Ending April 11th

Department Code	POL
Union Name	POA
Compensatory Time Limit	300
Compensatory Time Balance	420.75
Excess Balance	120.75
Hourly Rate	\$66.3375
Estimate Cash Out Amount	\$8010.25

The final amounts may change when payroll is processed for the pay period ending April 25th. If at that time your balance remains in excess of the MOU limits you have the following options:

Option 1: Receive the entire cash out to a check disbursement

- Earnings will be applicable to current Federal (25%) and State (6.6%) withholdings rates. Refer to "Supplemental Wages" section on Page 18 of the following IRS document:
<http://www.irs.gov/pub/irs-pdf/p15.pdf>
- Distribution of your pay via a manual check will be on Tuesday, May 20th. (Direct deposit is not available for this option.)

Option 2: Defer a portion or the entire cash out to your San Francisco Deferred Compensation Plan (SFDCP)

- If you are already enrolled in the SFDCP, you can defer your cash out to that existing account
- If you do not have an existing account you must contact SFDCP at 415-581-2330 and open a new SFDCP account to defer your cash out. See the official site at <http://sfdcp.preparewithpru.com/> for information on SFDCP.
- Note: SFDCP annual contribution limits are \$17,500 if you are less than 50 years old and \$23,000 if you are 50 years old or older. If your cash out amount results in you reaching these limits, you will need to receive the remaining amounts as a manual check under Option 1.
- If you are interested in Option 2 you must contact SFDCP at 415-581-2330 by **Monday, May 12th**. SFDCP representatives can assist you with accounts and contribution amounts.
- Distribution of deferred cash out to SFDCP accounts will begin the week of June 2nd

Important: Your entire cash out amount will be applied using Option 1 unless you contact SFDCP by Monday, May 12th with your interest in Option 2. If you want to split your cash out between both Option 1 and Option 2, start by confirming your deferred compensation amount with SFDCP and they will work with the Controller's Office to ensure remaining amounts are distributed via a manual check.

If you have questions on your balances or the cash out process please contact your Department HR or Payroll staff. If you have questions about the Deferred Compensation Plan please call SFDCP at 415-581-2330.