File No. 120511 Committee Item No. 18
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight **Date** June 14, 2012

Board of Supervisors Meeting **Date** _____

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Completed by: Alisa Miller **Date** June 8, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

FILE NO. 120511 ORDINANCE NO.

[Memorandum of Understanding - San Francisco Sheriffs' Managers and Supervisors Association]

Ordinance adopting and implementing the arbitration award establishing the Memorandum of Understanding between the City and County of San Francisco and the San Francisco Sheriffs' Managers and Supervisors Association, to be effective July 1, 2012, through June 30, 2014.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors hereby adopts and implements the arbitration award establishing the Memorandum of Understanding between the City and County of San Francisco and the San Francisco Sheriffs' Managers and Supervisors Association, to be effective July 1, 2012, through June 30, 2014.

The arbitration award establishing the Memorandum of Understanding so implemented is on file in the office of the Board of Supervisors in Board File No. 120511.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: Elizabeth S. Salveson
ELIZABETH S. SALVESON
Chief Labor Attorney

MSA BARGAINING HIGHLIGHTS

Term – Two year term (July 1, 2012 to June 30, 2014)

Wages –

Fiscal Year 2012-2013: No wage increases

Fiscal Year 2013-2014:

- 1% on July 1, 2013
- 1% on January 4, 2014
- 1% on March 29, 2014

Prior to 2014 negotiations, the parties will conduct a survey of total compensation for the rank of Sheriff's Captain in the 10 county CSA, which will serve as a basis for negotiations. The parties will also meet and confer about appropriate salary differentials between the ranks of the bargaining unit, in preparation for 2014 negotiations.

Structural Reform of the City's Healthcare Benefit and Cost-Sharing Structures –

- Health care cost sharing effective January 1, 2014:
  - For "medically single employees" (Employee Only) enrolled in any plan other than the highest cost plan, the City shall only contribute ninety percent (90%) of the "medically single employee" (Employee Only) premium for the plan in which the employee is enrolled.
  - For "medically single employees" (Employee Only) enrolled in the highest cost plan, the City shall only contribute ninety percent (90%) of the "medically single employee" (Employee Only) premium for the second highest cost plan. However, in calendar year 2014 only, the City will subsidize half of the amount of this increased premium cost for "medically single employees" who elect to enroll in the highest cost plan.
- Payment of Delta Dental premiums for bargaining unit members beginning 1/1/13: $5/month for employee-only, $10/month for employee + 1 dependent, or $15/month for employee + 2 or more dependents

CalPERS Proposition C Contribution – Effective July 1, 2012, covered employees who are members of CalPERS agree to make pre-tax contributions similar to those being made by members of SFERS, as required under Charter section A8.590-9.

Additional Compensation –

- Standby Pay – The parties agreed to eliminate the 25% standby premium and maintain only the 10% standby premium when the Department outfits the employee with an electronic communication device.

- Emergency Services Unit – Effective 7/1/13, the ESU premium will increase from 1% to 3% (arbitration award). Reflect current practice that Hostage Negotiations Team is eligible.

Release Time Bank – Consistent with DSA, the MSA Officers will have access to a proportional release time bank to negotiate, attend meetings with the City, or handle grievances.

Compensatory Time Off – MSA members may now earn 160 hours of CTO per year and maintain a balance of CTO hours of up to 160 hours, up from 80 hours.

Meet and Confer – The parties will continue to meet and confer about the following topics, subject to the Charter Section A8.590-5:

A. The number of PTO slots (for vacation time, in lieu or floating holidays, or compensatory time) that will be made available to bargaining unit members.

B. How to incorporate "briefing time" at the beginning of each shift, subject to the operational needs of the Department.

C. Whether to adopt a Pilot Physical Fitness/Wellness Incentive Program.

D. Whether to participate in the Pilot San Francisco Housing program covering employees of the San Francisco Police and Fire Departments, subject to approval of the Board of Supervisors.

E. Clarification of the overtime available to bargaining unit members (i.e. overtime on non-supervisory posts, tasks, or assignments to which bargaining unit members are routinely assigned).

F. Whether to eliminate the intermediate POST premium prospectively and replace it with a Supervisory/Management POST premium for employees with a Bachelor's degree, on a cost neutral basis.

IN INTEREST ARBITRATION PROCEEDINGS
PURSUANT TO CHARTER SECTIONS A8.590

San Francisco Sheriff's Managers and Supervisors Association	/	
Union	/	
	/	OPINION AND AWARD
and	/	
The City and County of San Francisco	/	
Employer	/	

Board Members

Matthew Goldberg:	Neutral Chairperson
William Avery:	City Board Member
Lisette Adams:	Union Board Member

Appearances

On Behalf of The Union:	On Behalf of the Employer
Peter W. Saltzman, Esq.	Terence Howzell, Esq.
Leonard Carder, LLP,	Deputy City Attorney,
1188 Franklin Street,	1390 Market Street, 5th Floor,
San Francisco, CA, 94109	San Francisco, CA, 94102

INTRODUCTION

The impasse between the parties came on for interest arbitration hearings on April 21, April 26, May 5 and May 11, 2012, at 1 South Van Ness Avenue, San Francisco, pursuant to Section A8.590-5 of the Charter ("Charter") of the City and County of San Francisco ("City").

Matthew Goldberg, arbitrator/mediator, had been previously agreed upon by the parties to act as the neutral Chairperson of the Arbitration Board. William Avery, negotiator for the City's Department of Human Resources, was selected by the Employer as its Board Member; and Lisette Adams, President of San Francisco Sheriff's Managers and Supervisors Association (MSA or "The Union"), was selected by the Union as its Board Member.

The City was represented at the hearing by Terence Howzell, Esq., Deputy City Attorney. The Union was represented by Peter W. Saltzman, Esq., of Leonard Carder, LLP. The hearing was recorded by a Certified Shorthand Reporter, and the parties were afforded the full opportunity to present and call witnesses, to cross-examine the witnesses of the other party, and to present evidence and arguments in support of their positions.

TENTATIVE AGREEMENTS

Prior to, and during the, arbitration, the parties managed to reach tentative agreements on several issues which they had put upon the bargaining table. The Chair of the Board very closely queried the advocates and his fellow board members as to whether the tentative agreements had been reached in good faith and at arms-length, and was assured by everyone involved in the process that such was the case. Therefore, the Board approves each of these tentative agreements and directs the inclusion of them all into the new Collective Bargaining Agreement ("CBA"), as follows:

1. Union Proposal # 5 – Standby Pay
2. Union Proposal #7 – Acting Assignment Pay
3. Union #11 – 2-year term of the MOU

4. Union Proposal #26 – Awards Ceremony
5. Union Proposal #28 – Release Time
6. City Proposal #3 – Wellness Cleanup
7. City Proposal #7 – Accelerated Step Deletion
8. City Proposal #10 – Dental Premium
9. City Proposal #13 – Layoff Election
10. City Proposal #17 - PPSD Address Update
11. City Proposal #18 – 2007 Reopen Cleanup
12. City Proposal #19 – Retirement/Proposition C
13. City Proposal #21 – Work Schedule Cleanup
14. City Proposal #23 – Health and Welfare (version 4)

STIPULATED AWARD ON REMAINING ISSUES

Under the Charter, unresolved differences in negotiations between the City and a recognized employee organization which persist to the point of impasse are submitted to final and binding interest arbitration, to be heard and decided by a three-member board. The City appoints one member thereto, the union appoints its member, and those two members select a third, neutral person to chair the board.

Charter Section A8.590-5(c) requires, among other things, that the Arbitration Board

> hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Arbitration Board, in the exercise of its discretion, may meet privately with the parties, mediate or arbitrate the issues in dispute. The Arbitration Board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration process, or reduce the costs of the arbitration process.

In this case, the Arbitration Board held public hearings on April 21, April 26, May 5 and May 11, 2012, received evidence from both parties on all issues in dispute, and caused a transcript of all proceedings to be prepared. At the end of these proceedings on May 11, 2012, the Arbitration Board, in the exercise of its discretion, asked the neutral Chairperson to make recommendations to the parties on each of the issues still in dispute, which if agreed upon would be incorporated in a stipulated arbitration award. Adopting this procedure, the parties eventually stipulated to the following five provisions, which are hereby incorporated into this Opinion and Award and to which all three panel members concur:

1. The text of paragraph 104 of the Agreement ("The parties acknowledge and understand that the market wage adjustment process set forth herein was reached by mutual agreement and is intended to determine market wage adjustments only during the term of this Agreement.") will be deleted and replaced with:

> During collective bargaining negotiations in 2012, the Union proposed changes to the preceding market wage adjustment formula for the supervisorial classifications it represents. At the conclusion of arbitration proceedings pursuant to Charter Section A8.590-5, it was agreed that wage increases during the 2012-14 term would be as specified in subsection (A) below, and that the parties will meet and confer as set forth in subsections (B)-(C) below.
>
> (A) There shall be a one percent (1%) base wage increase for all represented classifications effective on each of the following dates: July 1, 2013, January 4, 2014 and March 29, 2014.
>
> (B) Prior to the commencement of negotiations for the next contract term beginning July 1, 2014, the parties shall complete a survey of total compensation (maximum monthly salary, maximum educational incentive premiums, employer payment of mandatory employee retirement

contributions and retirement supplements, and longevity/retention premiums) for the rank of Captain (8312). The survey shall be conducted of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma, and shall be updated to reflect rates known and officially authorized for payment as of May 15, 2014. The difference between the average total amount of all survey data points and comparable total amount for San Francisco Sheriff's Captains for the identical data points shall be calculated as a percentage, which shall serve as a basis for collective bargaining negotiations for the successor term beginning on July 1, 2014.

(C) During the term of this Agreement, the parties shall meet and confer on salary differentials between successive classifications (8308, 8310, 8312 and 8314) to serve as a basis for collective bargaining negotiations for the successor term beginning on July 1, 2014. These negotiations shall be subject to the terms of Charter Section A8.590-5, except that for purposes of this Agreement only, (i) the date "January 20" in A8.590-5(b) shall be changed to "October 20, 2013", (ii) Arbitrator Matthew Goldberg, if then available, will serve as the third member of the Arbitration Board, and (iii) the Arbitration Board, if necessary, shall issue a decision on or before March 1, 2014.

2. Effective July 1, 2012, employees may accumulate a balance of compensatory time not in excess of 160 hours.

3. Sergeants and Lieutenants (8308 and 8310) shall be eligible to work all supervisory overtime (subject to legal restrictions), based on location, rank and bargaining unit seniority. "Supervisory overtime" is any overtime necessary to meet a supervisory minimum or a task that requires the supervision, management or direction of sworn or uniformed staff.

4. The parties acknowledge that under the San Francisco Administrative Code Section 18.13-1(c), the maximum permissible overtime limitations contained in Code Section 18.13-1(a) "shall not apply to overtime worked by any employee where the City and County of San Francisco incurs no direct or indirect additional costs and where the employee acquires no right to compensatory time off. For the purposes of this Section, "direct or indirect additional costs" includes any additional salary, wages, compensatory time or any other benefit provided at that time or deferred until a later date."

5. Commencing in July 2012, the Union and the Department shall negotiate separately in good faith regarding (a)-(f) below:

(a) The number of PTO slots (for vacation time, in lieu or floating holidays, or compensatory time) that will be made available to bargaining unit members.

(b) How to incorporate "briefing time" at the beginning of each shift subject to the operational needs of the Department.

(c) Whether to adopt a Pilot Physical Fitness/Wellness Incentive Program.

(d) Whether to participate in the Housing/Rental Loan Program covering employees of the San Francisco Police and Fire Departments, subject to approval of the Board of Supervisors.

(e) Clarification of the overtime available to bargaining unit members (i.e., overtime on non-supervisory posts, tasks or assignments to which bargaining unit members are routinely assigned).

(f) Whether to eliminate the Intermediate POST premium prospectively and replace it with a Supervisory/Management POST premium for employees with a BA on a cost neutral basis.

These negotiations shall be subject to the terms of Charter Section A8.590-5, except that for purposes of this Agreement only, (i) the date "January 20" in A8.590-5(b) shall be changed to "October 20, 2012", (ii) Arbitrator Matthew Goldberg, if then available, will serve as the third member of the Arbitration Board, and (iii) the Arbitration Board, if necessary, shall issue a decision on or before May 1, 2013.

AWARD – PART ONE

The Board approves each of the Tentative Agreements and each of the stipulated provisions above, and directs the inclusion of them all into the new Collective Bargaining Agreement for the 2012-2014 term.

Matthew Goldberg – I concur _____

William Avery, City Member – I concur _____ 8/6/12

Lisette Adams, Union Member – I concur _____

ISSUES

Two matters were submitted to the Board for final and binding, arbitral resolution. They are described more fully hereinafter but may be referred to, for the purposes of this Award, as follows:

1 Emergency Services Unit/Hostage Negotiation Team

2. Minimum Staffing

LAST, BEST, AND FINAL OFFERS/DEMANDS OF THE PARTIES

The last, best, and final offers ("LBFO") of MSA on the two disputed Issues (described more fully hereinafter) were as follows:

1) Emergency Services Unit/Hostage Negotiation Team – Amend Section III.C.4(c) of current Agreement to increase the percentage from 1% to 3% effective July 1, 2013; and to add the Hostage Negotiation Team effective July 1, 2012.
2) Minimum Staffing - - No change in existing contract language.

The last best and final offers of the City on these two disputed issues were as follows:

1) Emergency Services Unit/Hostage Negotiation Team – No change in existing contract language
2) Minimum Staffing - - Delete existing contract language in Section II.D.3. Staffing Levels (paragraphs 81 and 82) and Appendix B (Minimum Staffing Levels for County Jails and Courts (Custody Division and Programs and Departments Services Division).

RELEVANT CHARTER PROVISIONS

Under the City Charter, unresolved differences in negotiations between the City and a recognized employee organization which result in impasse are submitted to a final and binding mediation-arbitration procedure, to be heard and decided by a three-member

arbitration board. The City appoints one member thereto, the union appoints its member, and those two members select a third, neutral person to chair the board.

Charter Section A8.590-5 requires the Board to decide each issue in dispute by "selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial Arbitration Board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the Arbitration Board."

AWARD – PART TWO

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the Union's Emergency Services Unit/Hostage proposal is accepted and the City's Emergency Services Unit/Hostage proposal is rejected.

Matthew Goldberg, Chair – I concur
Bill Avery, City Member – I dissent _____ 8/15/12
Lisette Adams, Union Member – I concur _____

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the City's Minimum Staffing Proposal is rejected and the Union's Minimum Staffing proposal is accepted.

Matthew Goldberg, Chair – I concur _____

Bill Avery, City Member – I dissent _____

Lisette Adams, Union Member – I concur _____

May 15, 2012

AWARD – PART ONE

The Board approves each of the Tentative Agreements and each of the stipulated provisions above, and directs the inclusion of them all into the new Collective Bargaining Agreement for the 2012-2014 term.

Matthew Goldberg – I concur

William Avery, City Member – I concur

Lisette Adams, Union Member – I concur

ISSUES

Two matters were submitted to the Board for final and binding, arbitral resolution. They are described more fully hereinafter but may be referred to, for the purposes of this Award, as follows:

1 Emergency Services Unit/Hostage Negotiation Team
2. Minimum Staffing

LAST, BEST, AND FINAL OFFERS/DEMANDS OF THE PARTIES

The last, best, and final offers ("LBFO") of MSA on the two disputed Issues (described more fully hereinafter) were as follows:

similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial Arbitration Board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the Arbitration Board."

This Charter interest arbitration system is referred to in the labor world as "issue-by-issue, baseball arbitration." The Charter's arbitration board may only select the offer on each disputed issue made by one party. The Board may not modify or alter, to its choosing, any proposal but may approve only one of the competing proposals on each subject still at impasse.

AWARD – PART TWO

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the Union's Emergency Services Unit/Hostage proposal is accepted and the City's Emergency Services Unit/Hostage proposal is rejected.

Matthew Goldberg, Chair – I concur _____

Bill Avery, City Member -- I dissent _____

Lisette Adams, Union Member – I concur _____

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the City's Minimum Staffing Proposal is rejected and the Union's Minimum Staffing proposal is accepted.

Matthew Goldberg, Chair – I concur _____

Bill Avery, City Member – I dissent _____

(f) Whether to eliminate the Intermediate POST premium prospectively and replace it with a Supervisory/Management POST premium for employees with a BA on a cost neutral basis.

These negotiations shall be subject to the terms of Charter Section A8.590-5, except that for purposes of this Agreement only, (i) the date "January 20" in A8.590-5(b) shall be changed to "October 20, 2012", (ii) Arbitrator Matthew Goldberg, if then available, will serve as the third member of the Arbitration Board, and (iii) the Arbitration Board, if necessary, shall issue a decision on or before May 1, 2013.

AWARD – PART ONE

The Board approves each of the Tentative Agreements and each of the stipulated provisions above, and directs the inclusion of them all into the new Collective Bargaining Agreement for the 2012-2014 term.

Matthew Goldberg – I concur _____

William Avery, City Member -- I concur _____

Lisette Adams, Union Member – I concur _____

ISSUES

Two matters were submitted to the Board for final and binding, arbitral resolution. They are described more fully hereinafter but may be referred to, for the purposes of this Award, as follows:

arbitration board. The City appoints one member thereto, the union appoints its member, and those two members select a third, neutral person to chair the board.

Charter Section A8.590-5 requires the Board to decide each issue in dispute by "selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial Arbitration Board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the Arbitration Board."

AWARD – PART TWO

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the Union's Emergency Services Unit/Hostage proposal is accepted and the City's Emergency Services Unit/Hostage proposal is rejected.

Matthew Goldberg, Chair – I concur _____

Bill Avery, City Member -- I dissent _____

Lisette Adams, Union Member – I concur _____

Based on the preponderance of the evidence presented by the parties and the relevant criteria of Charter Section A8.590-5(d), the City's Minimum Staffing Proposal is rejected and the Union's Minimum Staffing proposal is accepted.

Matthew Goldberg, Chair – I concur _____

Bill Avery, City Member -- I dissent _____

Lisette Adams, Union Member – I concur _____

May 15, 2012

COLLECTIVE BARGAINING AGREEMENT

between

THE CITY AND COUNTY OF SAN FRANCISCO

and

THE SAN FRANCISCO
SHERIFFS' MANAGERS AND SUPERVISORS ASSOCIATION

July 1, 2012 - June 30, 2014

** Complete copy of document is
located in

File No. 120511