

## REPORT TO CITY COUNCIL

**DATE: JULY 28, 2009**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: LOUIS CELAYA, ASSISTANT TO THE CITY MANAGER**

**SUBJECT: APPROVE COUNTY-CITY INDEMNITY AMENDMENT TO THE MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT WITH THE COUNTY OF LOS ANGELES, EFFECTIVE AS OF JULY 1, 2009**

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The California Contract Cities Association City Managers/Administrators Committee (CCCA) has reached a tentative agreement with the Los Angeles County Board of Supervisors regarding the special indemnity language to be incorporated into the Municipal Law Enforcement Services Agreement that was approved by the City Council on June 10, 2009. In June 2004, the City entered into a five-year agreement with the County of Los Angeles for law enforcement services through the County Sheriff's Department. The Municipal Law Enforcement Services agreement was scheduled to terminate on June 30, 2009, but has been extended for one-year to allow time for the CCCA to address liability issues with the County. Specifically, contract cities have been advocating that the County should assume full liability for the criminal conduct of on-duty deputies.

The CCCA has been working with the County on the proposed indemnity agreement and have concluded their discussions. The CCCA has recommended each of the contract cities approve the attached indemnity agreement. The CCCA has advised cities that the County Board of Supervisors has indicated its desire to consider the agreement for approval at its August 11, 2009, meeting, and has requested to have all contract cities approve the agreement prior to the meeting. The special indemnity agreement, effective as of July 1, 2009, includes provisions requiring the County to reimburse the Liability Trust Fund with one-half (1/2) of any settlements, judgments, etc., that are or may be used for claims, losses, or other expenses related to certain criminal actions under specified circumstances, primarily sexual assaults. The agreement shall be applied to any claims notice, first given to the Liability Trust Fund Oversight Committee, after the effective date of the agreement. This represents a compromise between the positions of the cities and the County on this issue.

On July 27, 2009, the City Managers/Administration Group met to discuss the agreement, and elected to approve it, although with a certain amount of trepidation, to ensure the continued provision of law enforcement services in their respective communities. Staff has discussed this issue with the City Attorney who concurs that the County-City indemnity agreement will add some protections to the Liability Trust Fund over the current agreement and ensure all contract

city communities continue to receive services and are protected. Although this agreement does not provide the full indemnity the cities have sought, it does represent an improvement over the existing arrangement.

The City Attorney has reviewed and approved the proposed agreement as to form. A revised agreement is scheduled to be released to include a few missing cities and punctuation errors in the document.

## **RECOMMENDATION**

Staff recommends the City Council approve the County-City Special Indemnity Agreement, an amendment to the Municipal Law Enforcement Services Agreement, with the County of Los Angeles, effective as of July 1, 2009, and authorize the Mayor to sign the final version of the agreement.

Attachments: County-City Special Indemnity Agreement

## **COUNTY-CITY SPECIAL INDEMNITY AGREEMENT**

THIS AGREEMENT ("Agreement"), dated for reference purposes on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, is made and entered into between the County of Los Angeles, hereinafter referred to as the "County," and the Cities identified in Recital G below, hereinafter cumulatively referred to as the "Cities."

### **RECITALS**

- A.** Cities, and each of them, and County have heretofore contracted for the performance of law enforcement services to be provided by the County, its officers, agents and employees, known as "Municipal Law Enforcement Services Agreements" which contracts the parties may in the future extend, renew and amend, and enter into other and further contracts for the performance of such services (hereinafter referred to as "MLESA"); and
- B.** Cities and County have heretofore contracted for the indemnification of the Cities by the County, utilizing the Liability Trust Fund ("LTF") for the acts and omissions committed by the County's employees in the course and scope of providing services under the MLESA agreements, more particularly described as the Joint Indemnity Agreements or Assumption of Liability Agreements (hereinafter referred to as "Joint Indemnity Agreements") which have remained in full force and effect to the present time; and
- C.** In accordance with the Joint Indemnity Agreements, the County established the LTF, as provided in those agreements. In accordance with the Joint Indemnity Agreements, the Cities, and each of them, are required

to pay monies into the LTF. The monies in the LTF are used to reimburse the County for claims, losses, costs and expenses it incurs for which indemnification is provided in the parties' MLESA and/or Joint Indemnity Agreements; and

**D.** The County withdrew sums from the LTF for the purpose of reimbursing itself for its payment of settlement of claims related to sexual assaults committed by a deputy sheriff (Gonzales) in the years 2002 and 2003 (the "Claims"); and

**E.** A dispute has arisen between the parties regarding the circumstances under which the County may utilize the funds in the LTF for claims arising from sexual assaults committed by deputy sheriffs employed by the County ("Sexual Assaults"); and

**F.** The parties desire to continue the Joint Indemnity Agreements and MLESA agreements, as amended, modified and supplemented from time to time. As further consideration to the Cities, the County is willing to reimburse the LTF for a portion of the sums that are used or may be used by it from the LTF for claims, losses, costs or expenses arising out of certain Sexual Assaults, as defined in Section 2 below, occurring in the performance of the MLESA agreements on the terms and in the manner provided in this Agreement.

**G.** The Cities that are a party to this Agreement are as follows:

City of Agoura Hills  
City of Artesia  
City of Avalon

City of Bellflower  
City of Bradbury  
City of Calabasas  
City of Carson  
City of Cerritos  
City of Commerce  
City of Diamond Bar  
City of Duarte  
City of Hawaiian Gardens  
City of Hidden Hills  
City of Industry  
City of La Canada  
City of La Puente  
City of Lakewood  
City of Lancaster  
City of Lawndale  
City of Lomita  
City of Lynwood  
City of Malibu  
City of Norwalk  
City of Palmdale  
City of Pico Rivera  
City of Rancho Palos Verde  
City of Rolling Hills  
City of Rolling Hills Estate  
City of Rosemead  
City of San Dimas  
City of Santa Clarita  
City of South El Monte  
City of Temple City  
City of Walnut  
City of West Hollywood  
City of Westlake Village

NOW, THEREFORE, for good and valuable consideration, receipt of which is acknowledged, it is mutually agreed as follows:

### **AGREEMENT**

**1. Effective Date.**

This Agreement shall be effective as of July 1, 2009. The foregoing notwithstanding, this Agreement shall apply to any claims notice of which is first

given to the Liability Trust Fund Oversight Committee after the effective date of this agreement, regardless of the date of occurrence. For purposes of this Agreement “notice” shall mean notification to the Chief Executive Officer of the California Joint Powers Insurance Authority and the Executive Director of the California Contract Cities Association, unless otherwise instructed in writing.

**2. Indemnity by the County to the City.**

The parties agree that the maximum liability of the LTF for any losses, claims, costs or expenses related to certain Sexual Assaults, as herein below defined, by deputies or other peace officers in the employ of the County shall be one-half (1 / 2) of any settlement, judgment or award for such assaults and the costs of defense, including attorneys fees, for such claims or lawsuits. In the event that a withdrawal is made by the County from the LTF for any liability related to certain Sexual Assaults by deputies or other peace officers, as herein below defined, the County shall reimburse the LTF, or, in the event that it has not made a withdrawal of funds from the LTF it shall assume the responsibility to pay from its own funds, one-half (1 / 2) of any amounts necessary to satisfy any judgment, award or settlement not otherwise covered by insurance, if there is any, together with costs of defense, including attorneys fees, under the following circumstances:

- a. A felony judgment of criminal conviction is entered in a state or federal court based upon the same facts as the claim; and
- b. The felony judgment of criminal conviction is based upon an act of rape, sodomy, oral copulation or other sexual penetration of a person;

For purposes of calculating the amount that the County is obligated to pay into the LTF under this Agreement, any amount paid by an insurance carrier directly to a claimant on a claim which is subject to this Agreement shall not be deemed to have been paid from the LTF.

For purposes of calculating the amount that the County is obligated to pay into the LTF under this Agreement, any amount paid from the LTF on a claim which is subject to this Agreement but which is reimbursed to the LTF by an insurance carrier shall not have been deemed paid from the LTF.

Nothing herein creates an obligation upon the Cities, or any of them, or any other entity to acquire, have or maintain any policy of insurance.

**3. Term of and Application to Other Agreements.**

This Agreement shall apply to all MLESA agreements now existing or hereafter entered into, including amendments, renewals or other extensions thereof This Agreement shall serve to supplement the Joint Indemnity Agreements with respect to the single subject matter addressed herein.

Nothing herein shall be deemed to change, modify, alter, amend, or substitute any term, right, obligation or condition set forth in an MLESA, as amended or modified, from time to time.

**4. Termination of Service Contracts Between County and Cities.**

This Agreement shall continue in effect until the last of any MLESA or similar agreement is lawfully terminated in accordance with its terms. Such termination shall not relieve County or City for any obligations set forth in such

MLESA agreement relating to obligations upon termination of such agreement and this Agreement to any claims related to a Sexual Assault.

**5. Release of the Claims.**

The Cities and each of them hereby waive, release and relinquish any claim they may have for the reimbursement of the sums withdrawn by the County with respect to the Claims. The County hereby waives, releases and relinquishes any right or claim it may have for reimbursement of any sums it has or may have paid or incurred with regard to any Sexual Assault occurring prior to the effective date of this Agreement.

**6. Further Assurances.**

Each of the parties hereto agrees to execute and deliver any and all additional papers and documents, and to do any and all acts reasonably necessary in connection with the performance of its obligations hereunder and to carry out the intent of the parties hereto.

**7. Non-Admission of Liability.**

Each of the parties hereto agrees that nothing contained or incorporated herein shall be deemed as an admission of liability with respect to any matter, thing, or dispute whatsoever.

**8. Entire Agreement.**

This Agreement with regard to the use of LTF funds by the County for claims arising out of Sexual Assaults, and the other agreements between the parties referenced herein, shall constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and



shall supersede all prior and contemporaneous agreements, representations of the parties concerning the subject matter hereof and the terms applicable thereto.

**9. Amendment.**

This Agreement may not be supplemented, modified or amended in any manner, except by an instrument in writing stating that it is a supplement, modification or amendment of this Agreement and signed by each of the parties hereto.

**10. Waiver.**

No waiver of any of the provisions of this Agreement shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**11. Counterparts.**

This Agreement may be executed by one or more separate counterparts, each of which, when so executed shall together constitute one and the same instrument. A copy transmitted electronically or by facsimile shall be deemed effective as an original.

**12. Captions.**

The captions appearing in this Agreement are descriptive only and for convenience of reference. Should there be any conflict between any such caption and the terms of this Agreement, the latter shall control and govern the construction of this Agreement.

**13. Constructions and Interpretation.**

The parties have participated equally in the preparation of this Agreement, which shall be construed and interpreted simply and fairly and not strictly for or against any party.

**14. Recitals.**

The Recitals set forth in this Agreement are incorporated herein by reference and made a part hereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their fully authorized officers the day and year hereinafter set forth.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
DON KNABE  
Chairman, Board of Supervisors

ATTEST:  
SACHI HAMAI  
Executive Officer-Clerk  
Board of Supervisors

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
ROBERT E. KALUNIAN  
Acting County Counsel

By \_\_\_\_\_

(Signatures Continued)

CITY OF AGOURA HILLS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF ARTESIA

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF AVALON

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF BELLFLOWER

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF BRADBURY

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF CALABASAS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF CARSON

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF CERRITOS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF COMMERCE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF DIAMOND BAR

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF DUARTE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF HAWAIIAN GARDENS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)



CITY OF HIDDEN HILLS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF INDUSTRY

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF LA CANADA

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF LA PUENTE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF LAKEWOOD

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF LANCASTER

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF LAWNSDALE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF LOMITA

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF LYNWOOD

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF MALIBU

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF NORWALK

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF PALMDALE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF PICO RIVERA

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF RANCHO PALOS VERDE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF ROLLING HILLS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF ROLLING HILLS ESTATE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)



CITY OF ROSEMEAD

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF SAN DIMAS

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF SANTA CLARITA

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF SOUTH EL MONTE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF TEMPLE CITY

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF WALNUT

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

(Signatures Continued)

CITY OF WEST HOLLYWOOD

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_

CITY OF WESTLAKE VILLAGE

By \_\_\_\_\_

MAYOR

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:  
CITY ATTORNEY

By \_\_\_\_\_