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INTRADEPARTMENTAL CORRESPONDENCE

March 13, 2014
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TO: The Honorable Board of Police Commissioners

FROM: Executive Director, Board of Police Commissioners

SUBJECT: MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE LOS ANGELES BOARD OF AIRPORT COMMISSIONERS (AIRPORT COMMISSION) AND THE LOS ANGELES BOARD OF POLICE COMMISSIONERS (POLICE COMMISSION) ENABLING THE INSPECTOR GENERAL TO CONDUCT AUDITS AND INVESTIGATIONS OF THE LOS ANGELES AIRPORT POLICE DIVISION

RECOMMENDED ACTION

That the Board of Police Commissioners APPROVE and authorize the President to sign the MOA with the Airport Commission for services of the Inspector General as described.

DISCUSSION


On October 13, 2013, the Governor signed Assembly Bill 128 (attached) which added Section 830.15 to the California Penal Code. This legislative action changes the peace officer authority for Los Angeles Airport Police Officers from Penal Code Section 830.33 to 830.1. This change will occur if the Police Commission and Airport Commission enter into an agreement to enable the Inspector General to conduct audits and investigations of the Los Angeles Airport Police Division, on or before April 1, 2014. This change would place an airport law enforcement officer regularly employed by the Los Angeles World Airports (LAWA), within a different category of peace officers who authority extends to any place in the state without restrictions as to arrest powers and with the authority to carry specified firearms.

Should the Airport Commission make a request for the services of the Inspector General they will provide cost reimbursement for those services. The Office of the Mayor has prepared the MOA in consultation with the Inspector General, legal counsel for the Airport Commission and Police General Counsel.

The MOA is being considered on March 18, 2014 by the Airport Commission for adoption. The Deputy Mayor for Public Safety and Homeland Security, Eileen Decker will be available at the Commission meeting should you have any specific questions regarding the MOA.

If I can provide any additional information as always please do not hesitate to contact me.

Respectfully submitted,


RICHARD M. TEFANK, Executive Director
Board of Police Commissioners

Attachments

MEMORANDUM OF AGREEMENT
BETWEEN THE
LOS ANGELES BOARD OF AIRPORT COMMISSIONERS
AND THE
LOS ANGELES BOARD OF POLICE COMMISSIONERS

I. PARTIES

This Memorandum of Agreement (“MOA” or “Agreement”) is entered by and between the Los Angeles Board of Airport Commissioners (“Airport Commission”) and the Los Angeles Board of Police Commissioners (“Police Commission”).

II. PURPOSE

On October 13, 2013, California State Governor Jerry Brown signed into law Assembly Bill 128 which added Section 830.15 to the California Penal Code. This legislative action changes the peace officer authority for Los Angeles Airport Police Officers from Penal Code Section 830.33 to 830.1. This change in peace officer status becomes effective if and when the Police Commission and the Airport Commission enter into an agreement to enable the Inspector General of the Police Commission to conduct audits and investigations of the Los Angeles Airport Police Division.

The purpose of this Agreement is to satisfy the contingency provision of Section 830.15 to allow the change in peace officer status for Los Angeles Airport Police Officers. This Agreement provides the process for the Airport Commission to make specific requests to the Inspector General for audits and investigations of the Los Angeles Airport Police Division.

Nothing in this Agreement changes the current operational MOA between the Los Angeles World Airports (LAWA) and the Los Angeles Police Department (LAPD) or affects the manner or extent that the Los Angeles Airport Police Division exercises its duties and responsibilities, including enforcement of state and local laws, government regulations, and administrative codes.

III. SCOPE AND AUTHORITY

Pursuant to Section 631 of the Los Angeles City Charter (“Charter”), the Airport Commission has jurisdiction over the Department of Airports, a proprietary department of the City of Los Angeles that has possession, management and control of all airports, airport sites and all equipment, accommodations and facilities for aerial navigation, flight, instruction and commerce belonging to the City. The Los Angeles World Airports Police is a Division of the Department of Airports and is under the independent and autonomous control of the Department of Airports.

By Charter, the Police Commission serves as the head of the Los Angeles Police Department. The Police Commission is authorized by Charter Section 571 to appoint an Inspector General of the Police Department. The Inspector General has authority under Charter Section 573 to audit,

investigate and oversee the Los Angeles Police Department's handling of complaints of misconduct by police officers and civilian employees and perform other duties as may be assigned by the Police Commission.

This Agreement it is not intended to contravene or modify the powers and duties granted under the Charter to the Airport Commission, Police Commission and Inspector General.

IV. RESPONSIBILITIES

By a majority vote of the members of the Airport Commission, the Inspector General may be requested to conduct audits and investigations consistent with the powers, duties and limitations afforded under the Charter. The Airport Commission may request the assistance of the Inspector General in any circumstance, but will consider requesting an audit or investigation in the following circumstances: (1) any complaint or allegation of misconduct against the Chief of the Los Angeles Airport Police, Command Staff and their civilian equivalents; (2) allegations of constitutional violations, including but not limited to, biased policing (racial profiling) or improper search and seizure; (3) non-categorical uses of force in which there is a substantial conflict in a suspect or witness statement, injuries or other evidence that is inconsistent with the force reported, a complaint of unauthorized force, or fractures or injuries requiring sutures; and (4) allegations of dishonesty, corruption, perjury, obstruction of justice or other crimes related to public integrity. The Airport Commission agrees that LAWA will provide access to all materials, including personnel files, that the IG determines necessary to conduct an investigation. Should such material not be provided, the IG will inform both the Airport and Police Commissions as to whether the IG can conduct the investigation under those circumstances.

V. REPORTING OF AUDITS AND INVESTIGATIONS

All completed investigations or audits shall be forwarded directly to the President of the Airport Commission and the Executive Director of LAWA.

VI. TERM

This MOA shall become effective on the date it is executed below by all parties and shall remain in effect until modified or terminated. However, the parties intend for this Agreement to continue indefinitely.

In the event that the Airport Commission and Police Commission agree to modify any part of this MOA, any modifications shall be in writing and executed by both parties.

VII. NOTICE

The successive points of contact for all notices or other matters related to the implementation and execution of this MOA will be as follows:

A. Los Angeles Board of Police Commissioners:

1. Executive Director, Los Angeles Police Commission
2. President, Los Angeles Police Commission.

B. Los Angeles Board of Airport Commissioners:

1. Executive Director, Los Angeles World Airports
2. President, Board of Airport Commissioners

VIII. PROVISION OF LAW AND SEVERABILITY

The parties agree that this MOA is entered into voluntarily and is subject to all applicable current and future federal, state and local laws, the Los Angeles City Charter and any applicable rules and regulations enacted by independent commissions of the city (collectively, "Laws"). If any article, part or provision of this MOA is in conflict or inconsistent with such Laws, or is otherwise held to be invalid or unenforceable, such MOA article, part or provision will be suspended and superseded by such Laws and/or court ruling and the remainder of this MOA will not be affected thereby, unless the essential purpose of this MOA will be materially impaired thereby.

The parties further agree and acknowledge that this MOA is subordinate to any and all applicable Transportation Security Administration ("TSA") and Federal Aviation Administration ("FAA") approved programs pertaining to security and law enforcement services in support of those programs including any and all directives issued by TSA or FAA. To the extent any article, part or provision of this MOA is in conflict or inconsistent with such applicable TSA or FAA-approved program, such article, part or provision is null and void.

The parties further agree and acknowledge that this MOA is subordinate to the provisions of any existing or future agreement between the City of Los Angeles and the FAA, relative to the operation or maintenance of airports owned or operated by the City of Los Angeles, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of those airports.

Further, the parties acknowledge and agree that this MOA does not, in any manner whatsoever, modify, change or supersede any existing agreement between the many law enforcement agencies that participate in partnership to assure the security and safety of the persons and property at the airports and facilities under the possession, management and control of LAWA.

Nothing in this MOA is intended to restrict or limit the authority, powers and duties of the Chief of Police of the City of Los Angeles (and his/or her designees) and the Los Angeles Police Department to enforce federal, state and local laws and government regulations.

Nothing in this MOA is intended to restrict or limit the authority, powers and duties of the Executive Director of LAWA, his or her designees, the Chief of Airport Police or the designated Airport Security Coordinator to ensure the safety and security of LAWA facilities by providing for the enforcement of City, state and federal laws and LAWA issued regulations or enforceable provisions set forth in the TSA approved Airport Security Plan.

IX. FUNDING

The parties acknowledge and agree that 49 U.S.C. Sections 47107 (b) and 47133 only allow airport revenues to be used for the capital or operating costs of the airport, the local airport system, or other facilities owned or operated by the airport sponsor and directly and substantially related to the actual air transportation of persons or property. LAWA can reimburse the City of Los Angeles only for the actual costs of services actually received and documented.

The parties agree that the Inspector General will only provide services to LAWA at the request of the Airport Commission. Expenses incurred while conducting audits and investigations of the Airport Police Division at the request of the Airport Commission will be the responsibility of LAWA. The parties agree that audit and investigation services provided to LAWA by the Inspector General will be completed in close coordination and collaboration with the Airport Commission.

LAWA agrees to reimburse the City of Los Angeles for actual, documented costs of the agreed upon audit and investigation services provided by the Inspector General in accordance with this MOA.

The parties agree to process any reimbursements through the Office of the City Administrative Officer for the City of Los Angeles.

The Police Commission agrees to provide the Airport Commission with annual financial records of the costs associated with Inspector General related services and agrees to provide additional documentation necessary to ensure compliance with all applicable FAA and TSA regulatory requirements for reimbursement.

The Airport Commission shall reserve the right to audit any billing received and request documentation supporting such billing from the Police Commission.

The Police Commission agrees that invoices will be accompanied by documentation that meets the "Standard of Documentation for the Reimbursement to Government Entities of Costs of Services and Contributions to Airports" specified in the FAA's Policy and Procedures Concerning the Use of Airport Revenue, 64 Fed. Reg. 7696, 7719 (February 16, 1999). Such documentation shall include the following for each person providing services to the Airport Commission: (1) the time spent providing services for audits and investigations, (2) total deployment time (or equivalent), (3) the total costs of their position as determined by the City of Los Angeles Cost Allocation Plan in effect at that time.

The Police Commission agrees to maintain for a period of six years all documentation necessary to ensure compliance with all applicable FAA and TSA regulatory requirements for reimbursement and provide such documentation to the Airport Commission upon request.

APPROVED:

STEVE SOBOROFF, President
Board of Police Commissioners

Date

SEAN O. BURTON, President
Board of Airport Commissioners

Date

Assembly Bill No. 128

CHAPTER 783

An act to add and repeal Section 830.15 of the Penal Code, relating to peace officers.

[Approved by Governor October 13, 2013. Filed with Secretary of State October 13, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 128, Bradford. Peace officers: airport law enforcement.

Existing law establishes categories of peace officers with varying powers and authority to make arrests and carry firearms. Existing law provides that a person who is employed as an airport law enforcement officer is a peace officer whose authority extends to any place in the state for the purpose of enforcing the law in or about the properties owned, operated, and administered by the peace officer's employing agency or when making an arrest if there is immediate danger to a person or property, or of an escape of the perpetrator of an offense. Existing law authorizes this category of peace officer to carry a firearm.

This bill, if the Los Angeles Police Commission and the Los Angeles Board of Airport Commissioners enter into an agreement to enable the Inspector General of the Los Angeles Police Commission to conduct audits and investigations of the Los Angeles Airport Police Division, on or before April 1, 2014, would place an airport law enforcement officer regularly employed by Los Angeles World Airports, as defined, within a different category of peace officers whose authority extends to any place in the state without the above restrictions as to arrest powers and with the authority to carry specified firearms.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Los Angeles, relating to law enforcement at the Los Angeles International Airport.

The people of the State of California do enact as follows:

SECTION 1. Section 830.15 is added to the Penal Code, immediately following Section 830.14, to read:

830.15. (a) Notwithstanding subdivision (d) of Section 830.33, a person regularly employed as an airport law enforcement officer by Los Angeles World Airports is a peace officer for purposes of Section 830.1 if and when the Los Angeles Police Commission and the Los Angeles Board of Airport Commissioners enter into an agreement to enable the Inspector General of

the Los Angeles Police Commission to conduct audits and investigations of the Los Angeles Airport Police Division.

(b) For purposes of this section, "Los Angeles World Airports" means the department of the City of Los Angeles that owns and operates the Los Angeles International Airport, the Ontario International Airport, the Palmdale Regional Airport, and the Van Nuys Airport.

(c) If the Los Angeles Police Commission and the Los Angeles Board of Airport Commissioners do not take the necessary actions provided in subdivision (a) and do not make a record of that action publicly available on or before April 1, 2014, this section shall become inoperative on that date and, as of January 1, 2015, is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends the dates on which this section becomes inoperative and is repealed.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the City of Los Angeles relating to law enforcement at the Los Angeles International Airport.