

1 MICHAEL A. CONGER, ESQUIRE (State Bar #147882)
2 LAW OFFICE OF MICHAEL A. CONGER
3 16236 San Dieguito Road, Suite 4-14
4 Mailing: P.O. Box 9374
Rancho Santa Fe, California 92067
Telephone: (858) 759-0200
Facsimile: (858) 759-1906

5 Attorney for Plaintiffs

F I L E D
Clerk of the Superior Court
JUN 20 2008
By R. PORTILLO, Deputy

6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**

10 STEVEN A. SLOAN, PAUL HUBKA, and)
11 PETER MILLS,)

12 Plaintiffs,)

13 v.)

14 CITY OF SAN DIEGO, and DOES 1 to 20,)
15 inclusive,)

16 Defendants.)

CASE NO: GIC 848641

Date: June 24, 2008

Time: 8:45 a.m.

Judge: Judith F. Hayes

Dept: 68

Action filed: June 6, 2005

16 JOSEPH A. LOPEZ,)
17 WILLIAM D. KINGSBURY, and)
18 CURTIS E. PERKINS,)

19 Plaintiffs,)

20 v.)

21 CITY OF SAN DIEGO, and DOES 1 to 20,)
22 inclusive,)

23 Defendants.)
24

CASE NO: GIC 869054

Date: June 24, 2008

Time: 8:45 a.m.

Judge: Judith F. Hayes

Dept: 68

Action filed: July 13, 2006

JOINT *EX PARTE* APPLICATION
TO ENTER JUDGMENT
PURSUANT TO SETTLEMENT
AGREEMENT

[C.C.P. § 664.6]

25 Pursuant to Code of Civil Procedure section 664.6, the parties in these two related cases
26 request the Court to enter judgment pursuant to a settlement agreement reached by the parties
27 after two mediation sessions with The Honorable Wayne Peterson (Ret.). The Settlement
28 Agreement and Release, dated June 20, 2008, has been approved by the City Council and signed

1 by all parties, and is attached at Exhibit 1.

2 **1. BACKGROUND**

3 In *Sloan, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC 848641,
4 three City of San Diego police officers, Steven A. Sloan, Paul Hubka, and Peter Mills, sought a
5 declaration that the City improperly failed to include Canine Care pay in Base Compensation, for
6 the purpose of calculating their retirement benefits, consistent with San Diego Municipal Code
7 section 24.0103. After a one day bench trial on May 31, 2006, the plaintiffs prevailed and the
8 Court entered a declaratory judgment in favor of the plaintiffs. The City appealed. The Court of
9 Appeal for the Fourth Appellate District, Division One, concluded that Canine Care Pay must be
10 included in Base Compensation during the period July 1, 2000 through June 30, 2006.
11 Remittitur issued on April 1, 2008, and *Sloan* has become final.

12 In a related lawsuit, entitled *Lopez, et al. v. City of San Diego*, San Diego Superior Court
13 Case No. GIC 869054, three City of San Diego police officers, Joseph Lopez, William
14 Kingsbury, and Curtis Perkins, sought a declaration that the City improperly failed to include
15 Motorcycle Care Pay in Base Compensation, for the purpose of calculating retirement benefits,
16 consistent with San Diego Municipal Code section 24.0103. *Lopez* was stayed by this Court
17 pending the outcome of the *Sloan* appeal, and trial is presently set to commence on September
18 12, 2008.

19 After two mediation sessions with Judge Peterson in May and June, 2008, the City and
20 the plaintiffs in *Sloan* and *Lopez* have reached a written settlement agreement which has been
21 approved by the City Council and signed by the parties. (Exhibit 1.) The settlement will result in
22 corrected and increased retirement allowances for the plaintiffs and approximately 40 affected
23 canine and motorcycle officers. (Settlement Agreement, ¶ 1.1.) These officers' pensions will be
24 corrected, including retroactive adjustments to monthly pensions benefits already paid, with
25 adjustments including interest and cost-of living benefits. (Settlement Agreement, ¶ 1.1.1.)
26 *Sloan* plaintiff Paul Hubka, who has not yet retired and will not have his pension increased as a
27 result of the litigation, will be paid \$50,000 to settle his claims. (Settlement Agreement, ¶ 1.3.)

28 The affected officers, including the plaintiffs, will make retroactive employee

1 contributions to the administrator of the employee's pension fund, the San Diego City
2 Employees' Retirement System ("SDCERS"). (Settlement Agreement, ¶ 1.2.1.) The City will
3 also make retroactive employer contributions for these increased pension benefits. (Settlement
4 Agreement, ¶ 1.2.1.)

5 The plaintiffs in *Sloan* and *Lopez* have released their claims. (Settlement Agreement, ¶¶
6 2.1-2.2.) The approximately 40 other officers affected by the Settlement Agreement will sign a
7 similar release in order to receive the increased pensions resulting from the settlement.
8 (Settlement Agreement, ¶ 1.4; Attachment A.)

9 SDCERS has been apprised of the parties' settlement and has expressed that it will
10 perform all necessary administrative steps to implement the settlement. (Declaration of Michael
11 A. Conger, ¶ 4.)

12 Finally, the City has agreed to pay plaintiffs' attorney fees in the amount of \$223,100.
13 (Settlement Agreement, ¶ 1.7.)¹

14 2. AUTHORITY FOR THIS REQUEST

15 Code of Civil Procedure section 664.6, entitled "Entry of judgment pursuant to terms of
16 stipulation for settlement," provides:

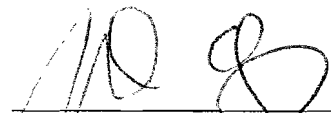
17 If parties to pending litigation stipulate, in a writing signed by the parties
18 outside the presence of the court or orally before the court, for settlement
19 of the case, or part thereof, the court, upon motion, may enter judgment
20 pursuant to the terms of the settlement. If requested by the parties, the
21 court may retain jurisdiction over the parties to enforce the settlement until
22 performance in full of the terms of the settlement.

23 The parties jointly request the Court to enter judgment pursuant to the terms of the
24 Settlement Agreement and Release.

25 Dated: June 23, 2008

LAW OFFICE OF MICHAEL A. CONGER

26 By:



Michael A. Conger
Attorney for Plaintiffs

27
28 ¹ In *Sloan* the plaintiffs have a pending motion for attorney fees, calendared for July
11, 2008, which has been resolved by the settlement agreement and may be taken off calendar.

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is made and entered into as of this 20th day of June, 2008 ("Effective Date"), by and among the City of San Diego ("City") and (i) Steven Sloan, Peter Mills, and Paul Hubka (collectively "*Sloan* Plaintiffs"); (ii) Joseph Lopez, William Kingsbury, and Curtis Perkins (collectively "*Lopez* Plaintiffs"), collectively referred to as "Plaintiffs." The Plaintiffs and the City shall be referred to collectively as the "Parties."

RECITALS

A. WHEREAS, in a lawsuit entitled *Sloan v. City of San Diego*, Case No. GIC848641 ("*Sloan* Litigation") filed in the California Superior Court, County of San Diego, the *Sloan* Plaintiffs sought a declaration that the City improperly failed to include Canine Care Pay in Base Compensation consistent with San Diego Municipal Code § 24.0103;

B. WHEREAS, in a related lawsuit pending in the California Superior Court, County of San Diego entitled *Lopez v. City of San Diego*, Case No. GIC869054 ("*Lopez* Litigation"), the *Lopez* Plaintiffs sought a declaration that the City improperly failed to include Motorcycle Care Pay in Base Compensation consistent with San Diego Municipal Code § 24.0103;

C. WHEREAS, in an appeal taken by the City in *Sloan v. City of San Diego*, Appeal No. 049158, the Court of Appeal for the Fourth District, Division One concluded that Canine Care Pay must be included in Base Compensation during the period July 1, 2000 through June 30, 2006;

D. WHEREAS, the Parties acknowledge that the Court of Appeal's opinion and order in the *Sloan* Litigation will apply equally to the *Lopez* Plaintiffs in the *Lopez* Litigation;

E. WHEREAS, the Parties have agreed to settle any and all disputes between them based on, relating to, or arising from the *Sloan* Litigation and the *Lopez* Litigation;

F. WHEREAS, the Parties desire to include within this settlement all San Diego Police Department officers who are not named Plaintiffs, but who received Canine Care Pay or Motorcycle Care Pay during the period July 1, 2000 through June 30, 2006 and also who entered the Deferred Retirement Option Plan ("DROP") or retired during the same period (hereinafter the "Affected Officers"); and,

G. WHEREAS, it is the intention of the Parties that this Agreement shall bring about the full and final resolution of all disputes concerning or relating to the inclusion of Canine Care Pay and Motorcycle Care Pay in the Earnings Code Document ("ECD") during the period July 1, 2000 through June 30, 2006, that have or could have arisen between the Parties, including the validity of the City's amendment of the ECD effective July 1, 2006.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, including, without limitation, the mutual promises set forth below, the Parties hereby agree as follows:

1. **Settlement.**

1.1 Corrected Payroll Data. Except as provided in Paragraph 1.3 below, as soon as possible following the execution of this Agreement the City will provide to the San Diego City Employees Retirement System ("SDCERS") corrected payroll data in an acceptable format for the approximately forty affected canine and motorcycle officers, including the named Plaintiffs other than Paul Hubka (collectively "Affected Officers").

1.1.1 Upon court approval of this Agreement, the City will direct SDCERS to re-calculate the Affected Officers' pension benefits and/or DROP benefits, with retroactive adjustments to interest and COLA as appropriate to reflect the inclusion of Canine Care Pay and Motorcycle Care Pay in Base Compensation, and to begin paying pension and/or DROP benefits reflecting these adjustments as soon as is practicable.

1.1.1.1 Upon court approval of this Agreement, the City will direct SDCERS to adjust the final measuring period of *Lopez* Plaintiff Curtis Perkins to reflect his highest one-year period, namely the one-year period ending June 30, 2006. Motorcycle Care Pay will be included in Perkins's Base Compensation for the period July 1, 2000 through June 30, 2006.

1.2 Retroactive Contributions.

1.2.1 Except as provided in Paragraph 1.3 below, as soon as possible following the execution of this Agreement, but in no event later than one hundred eighty (180) days of the execution of this Agreement, each Affected Officer who signs a release of claims, known and unknown, arising out of the *Sloan* and *Lopez* Litigation and pertaining to the City's correction of the ECD will pay retroactive employee contributions to SDCERS, plus interest, taking into account the employer pickups in effect during the relevant periods, that would have been made during the period July 1, 2000 through June 30, 2006, as well as any other necessary adjustments, including adjustments to the cost of purchase of service credits.

1.2.2 Except as provided in Paragraph 1.3 below, as soon as possible following the execution of this Agreement, but in no event later than one hundred eighty (180) days of the execution of this Agreement, the City will pay retroactive employer contributions to SDCERS, plus interest, as calculated on the basis of the corrected Base Compensation for each Affected Officer who signs a release of claims, known and unknown, arising out of the *Sloan* and *Lopez* Litigation and pertaining to the City's correction of the ECD.

1.3 *Sloan* Plaintiff Paul Hubka. Within forty-five (45) days of the execution of this Agreement, the City will pay *Sloan* Plaintiff Paul Hubka the sum of fifty thousand dollars (\$50,000) in full satisfaction of the judgment in the *Sloan* Litigation, as well as any claims pertaining to the City's retrospective and/or prospective correction of the ECD. Payment to Paul

Hubka will be made by a check made payable to “Law Office of Michael A. Conger, in trust, for the benefit of Paul Hubka.”

1.4 Releases by Affected Officers. Each Affected Officer who chooses voluntarily to participate in this Agreement will sign a release, in substantially the form attached hereto as Attachment A, of all claims relating to the City’s adjustment of Base Compensation and the re-calculation of his or her pension and/or DROP benefits as detailed in Paragraphs 1.1 and 1.2, as well as any claims pertaining to the City’s retrospective and/or prospective correction of the ECD.

1.5 Dismissal of Lopez Litigation With Prejudice. Within ten (10) business days following payment under Paragraphs 1.3 and 1.7, the parties shall file a Stipulated Request For Dismissal With Prejudice of the Litigation. All parties shall bear their own attorneys’ fees and costs, except as set forth in Paragraph 1.7 of this Agreement.

1.6 Entry of Satisfaction of Judgment. Within ten (10) business days following the completion of the re-calculations and adjustments to pension and/or DROP benefits as described in Paragraph 1.1.1 and the payment to Paul Hubka described in Paragraph 1.3, the *Sloan* Plaintiffs shall enter a satisfaction of judgment in the *Sloan* Litigation.

1.7 Attorneys’ Fees. The City will pay counsel for Plaintiffs’ costs and attorneys’ fees for the *Sloan* and *Lopez* Litigation an amount equal to, in total, and not exceeding \$223,100, which includes payment of fees and costs for administrative matters associated with the settlement. This payment shall be allocated among counsel for Plaintiffs, to include Michael Conger and Rick Benes. The check shall be made payable to Michael Conger. Upon the delivery of the check to Michael Conger, the City shall have no further obligation to Plaintiffs or their counsel for attorneys’ fees or costs.

1.7.1 Payment will be made within forty-five (45) days following execution of this Agreement by the Plaintiffs.

1.8 Withdrawal of Attorney Fees Motion. Within five (5) business days following execution of this Agreement, the motion for attorneys’ fees in the *Sloan* Litigation shall be withdrawn.

1.9 Approval by City Council. The terms of this Settlement have been approved by the San Diego City Council.

1.10 This Agreement is a compromise of disputed claims. It is specifically acknowledged that this Agreement shall not be used as an admission of liability or responsibility on the part of either Plaintiffs or the City.

2. **General Release of All Claims.**

2.1 Releases by Plaintiffs. The *Sloan* and *Lopez* Plaintiffs, for themselves and their predecessors, successors, heirs, assigns, claimants, employees, officers, partners, affiliates, agents, servants and all other representatives, past, present and future, hereby absolutely, forever and fully, generally and specifically, release and discharge the City and its predecessors, successors, heirs, assigns, claimants, employees, officers, partners, affiliates, agents, servants, attorneys and all other

representatives, past, present and future from any and all claims, contentions, rights, debts, liabilities, demands, accounts, reckonings, obligations, duties, promises, costs, expenses (including, but not limited to attorneys' fees and costs), liens, indemnification rights, damages, losses, actions, and causes of action, of any kind whatsoever, concerning or relating in any manner whatsoever to the inclusion of Canine Care Pay in Base Compensation during the Base Period, including, without limitation: (1) claims pertaining to the City's correction of the annual Earnings Codes Document, effective July 1, 2006, and (2) claims that were asserted or could have been asserted in the *Sloan* Complaint, filed June 6, 2005, or the *Lopez* Complaint, filed July 14, 2006 (collectively, "the Claims"), whether those claims are based upon contract, tort, statute or any other legal or equitable theory of recovery, and whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured.

2.2 Waiver of California Civil Code Section 1542. It is the clear and unequivocal intention of the Plaintiffs in executing this Agreement that this Agreement shall be effective as a full and final accord and satisfaction, release, and discharge of each and every Claim specifically or generally referred to in this Agreement. In furtherance of said intention, the Plaintiffs hereby acknowledge, by signing their initials in the spaces provided below, that they have read and understand Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.

With full awareness and understanding of the above provisions, each of the Parties hereby waives and relinquishes any and all rights the Plaintiffs may have with respect to the Claims under Section 1542, as well as any other statutes or common law principles of similar effect, to the full extent that he or she may lawfully so waive all such rights and benefits pertaining to the subject matter of the releases contained in this Agreement.

However, nothing in this release shall affect any other pending litigation, worker's compensation claims, or disability claims.

3. **Miscellaneous Provisions.**

3.1 Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective assigns and successors in interest.

3.2 Voluntary Acceptance and Potential Ambiguities. It is expressly acknowledged that the Parties are represented by counsel and fully understand, voluntarily accept and execute this Agreement. No Party or respective counsel shall be deemed the drafter of this Agreement, so if any ambiguity exists in this document, such ambiguity shall not be construed or resolved against any of the Parties.

3.3 Additional, Necessary Documents. The Parties agree to execute any and all additional documents reasonably necessary to complete and memorialize this Agreement and carry out all terms and conditions hereof.

3.4 Survivability of Terms. The foregoing warranties, covenants, and representations shall survive performance of the obligations of this Agreement and shall be deemed to be material covenants hereof. Nothing contained herein shall release any of the Parties from their obligations or liabilities under this Agreement.

3.5 Waiver. No waiver of any breach of any term or provision of this Agreement shall be construed to be, or shall be, a waiver of any other breach of this Agreement.

3.6 Final Integrated Agreement. This Agreement constitutes the entire, final and binding understanding between the Parties, and all prior discussions, statements and negotiations between the Parties prior to the date of this Agreement shall be deemed merged into this Agreement and the documents referred to herein, and shall not be used for any other purpose whatsoever.

3.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. If any part is held to be invalid, illegal, or unenforceable, the remainder shall nevertheless continue in full force and effect.


3.8 Counterparts. This Agreement may be signed in counterparts. A facsimile signature will be considered to be equivalent to an original signature.

3.9 Confidentiality. Except as may be required by law or court order, neither the Affected Officers, their attorney, nor any person acting by, through, under or in concert with them shall disclose the terms of this Agreement to any individual or entity other than their immediate family and accountants or tax preparers as may be necessary. In the event that a disclosure authorized by this Agreement is made, the Affected Officer shall inform the person to whom information is disclosed of the confidential nature of the Agreement and that, upon being informed of the terms of this Agreement, the person shall be equally bound by the provisions of this paragraph.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June 19, 2008

Steven Sloan: 

DATED: June __, 2008

Peter Mills: _____

DATED: June __, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June __, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June 19, 2008

Peter Mills: *Peter R Mills*

DATED: June __, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June __, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June __, 2008

Peter Mills: _____

DATED: June 20, 2008

Paul Hubka: *Paul D. Hubka*

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June __, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June ___, 2008

Steven Sloan: _____

DATED: June ___, 2008

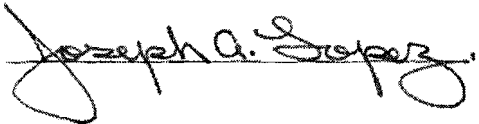
Peter Mills: _____

DATED: June ___, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June 18, 2008

Joseph Lopez:  _____

DATED: June ___, 2008

William Kingsbury: _____

DATED: June ___, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June ___, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June ___, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June ___, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June __, 2008

Peter Mills: _____

DATED: June __, 2008

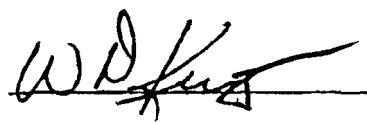
Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June 19, 2008

William Kingsbury:  _____

DATED: June __, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June __, 2008

Peter Mills: _____

DATED: June __, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June 18, 2008

Curtis Perkins:  _____

By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June __, 2008

Peter Mills: _____

DATED: June __, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June __, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June 19, 2008


Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June __, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June __, 2008

Steven Sloan: _____

DATED: June __, 2008

Peter Mills: _____

DATED: June __, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June __, 2008

Joseph Lopez: _____

DATED: June __, 2008

William Kingsbury: _____

DATED: June __, 2008

Curtis Perkins: _____


By: City of San Diego

DATED: June __, 2008

Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June 19, 2008

Mark S. Pulliam: 
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June __, 2008

Michael A. Conger: _____
Attorney for Plaintiffs

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

By: *Sloan* Plaintiffs

DATED: June ____, 2008

Steven Sloan: _____

DATED: June ____, 2008

Peter Mills: _____

DATED: June ____, 2008

Paul Hubka: _____

By: *Lopez* Plaintiffs

DATED: June ____, 2008

Joseph Lopez: _____

DATED: June ____, 2008

William Kingsbury: _____

DATED: June ____, 2008

Curtis Perkins: _____

By: City of San Diego

DATED: June ____, 2008


Don McGrath: _____
Executive Assistant City Attorney

APPROVED AS TO FORM:

DATED: June ____, 2008

Mark S. Pulliam: _____
LATHAM & WATKINS LLP
Attorneys for the City of San Diego

DATED: June 18, 2008

Michael A. Conger:  _____
Attorney for Plaintiffs

ATTACHMENT A

SD\633340.2

RELEASE

Effective upon Court approval of the Settlement Agreement in *Sloan* and *Lopez* under California Code of Civil Procedure Section 664.6, and in consideration of having my DROP and/or retirement benefits adjusted to include [**Canine Care Pay/Motorcycle Care Pay**] during the period July 1, 2000 through June 30, 2006 (hereinafter the "Base Period"), I, [**name**], on behalf of myself and my heirs, executors, beneficiaries, administrators, representatives, successors in interest, agents and assigns, hereby fully, and without limitation, release, and forever discharge the City, SDCERS, and all persons acting by, through, under, or in concert with them, from any and all rights, claims, liabilities, obligations, assertions, or causes of action, known or unknown, that I may have, arising from, based on, or relating to the inclusion of [**Canine Care Pay/Motorcycle Care Pay**] in my Base Compensation during the Base Period, including, without limitation: (1) claims pertaining to the City's correction of the annual Earnings Codes Document, effective July 1, 2006, and (2) claims that were asserted or could have been asserted in the *Sloan* Complaint, filed June 6, 2005, or the *Lopez* Complaint, filed July 14, 2006 (collectively, "the Claims"). Those complaints sought, respectively: (a) a declaration that the City improperly failed to include Canine Care Pay in Base Compensation as required by San Diego Municipal Code § 24.0103; and (b) a declaration that the City improperly failed to include Motorcycle Care Pay in Base Compensation as required by San Diego Municipal Code § 24.0103.

I acknowledge that I am aware of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

With full awareness and understanding of the above provisions, I hereby waive any rights I may have with respect to the Claims under Section 1542, as well as any other statutes or common law principles of similar effect.

However, nothing in this release shall affect any other pending litigation, worker's compensation claims, or disability claims.

Dated: _____, 2008

Signed: _____

Approved in form: _____
Michael Conger