

CITY OF SAN BERNARDINO  
FINANCE DEPARTMENT  
INTEROFFICE MEMORANDUM

5/24/07

Delivered confidential  
envelope to City Atty  
office

Copy B. Pachon  
Lewis e-mail

TO: Stephanie Easland, Assistant City Attorney  
FROM: Laura King, Payroll Supervisor  
SUBJECT: Richard Lewis, Settlement Agreement  
DATE: June 19, 2007  
COPIES: Barbara Pachon, Finance Director

In response to the settlement agreement of Richard Lewis, the Finance Department is requesting further clarification of section 2. "OTHER SUBSTANTIVE TERMS OF THE SETTLEMENT".

Subsection a) which states, "Mr. Lewis will be paid back pay from the effective date of Mr. Moon's promotion to the present, less required tax withholdings. The back pay shall consist of the difference between Mr. Lewis's actual pay as Captain for all regular hours and what Mr. Lewis would have been paid during such period for such hours had he been a Battalion Chief."

Please clarify the following:

- #11 6/15/07 • Shall the back pay be CalPERS reportable or non-reportable compensation? If reportable, should it be defined as the monthly pay rate (reportable for retirement purposes) or special compensation (in addition to and separate from the pay rate, e.g., acting pay)? Prior Period (Taxable) 547 - \$52,850 PERS (5) Retro Salary Adj.
- #11 6/15/07 • Should back pay for regular hours earned while on Industrial Disability Leave (4850-injury pay) be excluded from tax withholdings? Prior Period (Non-Taxable) 546 - \$15,712.26 PERS (5) Retro Salary Adj.

Subsection b) which states, "Mr. Lewis shall be compensated from the date of this agreement forward as if he had been promoted to the position of Battalion Chief (including all current and/or future benefits granted to Battalion Chiefs) with the exception listed in subsection c, below."

Please clarify the following:

- The date of the agreement? March 23, 2007

#11 6/15/07 Added 120 hrs. Admin pending legal opinion



- Shall all regular pay earned, based on the difference between the Captain and Battalion Chief rate, be CalPERS reportable or non-reportable compensation? If reportable, should it be defined as the monthly pay rate or special compensation?
- Define benefits (e.g., lower monthly health contribution, no sell-backs, admin. hours, straight time overtime as BC)? *needed effective date of agreement for benefit adjustments*
- In accordance with the Charter 186 increases, effective August 1 of each year, should compensation be adjusted to correspond? *yes*
- Should sell-back or payoff of leave balances, if any, include the difference between the Captain and Battalion Chief rate? *Not allowed  
Payoff at BC rate*

Subsection c) which states, "Mr. Lewis shall be compensated for all future overtime hours at the Captain rate; to wit, time and one half (1.5) the regular rate of pay Lewis would receive for Fire Captains of Mr. Lewis' experience and length of service."

- Will any overtime hours worked by Mr. Lewis be in the capacity of a Battalion Chief and therefore, paid at straight time? *No. Mr. Lewis will only be receiving the pay of BC. He will not be working in the capacity of a BC.*
- Thank you for your help with the agreement for Richard Lewis, I have informed Mr. Lewis that our anticipated processing date will be June 15, 2007. I know you are extremely busy so if you should have any questions, please do not hesitate to contact me at x5344.

Laura

PERS

a- Retroactive Salary Adjustment  
b- Special Compensation

Both considered includible compensation