

That the Mayor, be authorized to sign a Memorandum of Understanding between the City of El Paso and the Department of Homeland Security, Customs and Border Protection, U.S. Border Patrol for reimbursement of overtime expenses from October 27, 2004 to January 22, 2005; and that the City authorize all budget transfers as required for Operation Stonegarden.

[Police Department, Assistant Chief Paul Cross, (915) 564-7310]

Back up memo:

October 21, 2004

To: City Clerk

From: Assistant Chief Paul Cross

Subject: ADDITION - Consent City Council Agenda – October 26, 2004

The following is an explanation for the item on the City Council Agenda regarding the Police Department:

This agreement will allow the Police Department to place an additional 20-22 Officers on the streets 24/7 during the critical period of October 27, 2004 - January 22, 2005 for Homeland Security purposes.

The El Paso Police Department wishes to place the attached MOU on the agenda for Oct. 26, 2004 City Council Meeting.

The reason the item was submitted late is due to the fact that approval by the City Attorney's Office was not received until 4:08pm this date, 10/18/04. Additionally, the Police Department was not made aware of these funds until last week when Customs and Border Protection, US Border Patrol, called for a meeting with all local law enforcement agencies. During the meeting, the Police Department was advised that \$400,000 in overtime funds would be available for our Department for Homeland Security purposes. The funds must be expended on Homeland Security, and would be effective only during the following dates: Oct 27, 2004 – Jan 22, 2005.

In order for the Police Department to begin working Operation Stonegarden, the attached MOU would require Council approval on Oct 26, 2004. This operation would allow the Police Department to place an additional 20-22 Officers on the streets 24/7 during this critical period.

**Richard D. Wiles**  
Chief of Police



911 N. Raynor  
El Paso, Texas 79903  
(915) 564-7000

**TO:** Joyce Wilson  
City Manager

**FROM:** Diana Kirk  
Assistant Chief *AK/DK/Kirk*

**DATE:** October 19, 2004

**SUBJECT:** Addition to City Council Agenda – Meeting of 10/26/2004

*04 OCT 21 11:11*

The El Paso Police Department wishes to place the attached MOU on the agenda for Oct. 26, 2004 City Council Meeting.

The reason the item was submitted late is due to the fact that approval by the City Attorney's Office was not received until 4:08pm on 10/18/04. Additionally, the Police Department was not made aware of these funds until last week when Customs and Border Protection, US Border Patrol, called for a meeting with all local law enforcement agencies. During the meeting, the Police Department was advised that \$400,000 in overtime funds would be available for our Department for Homeland Security purposes. The funds must be expended on Homeland Security, and would be effective only during the following dates: Oct 27, 2004 – Jan 22, 2005.

In order for the Police Department to begin working Operation Stonegarden, the attached MOU would require Council approval on Oct 26, 2004. This operation would allow the Police Department to place an additional 20-22 Officers on the streets 24/7 during this critical period.

**DEDICATED TO SERVE**

# RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor, be authorized to sign a Memorandum of Understanding between the City of El Paso and the Department of Homeland Security, Customs and Border Protection, U.S. Border Patrol for reimbursement of overtime expenses from October 27, 2004 to January 22, 2005; and that the City authorize all budget transfers as required for Operation Stonegarden.

**ADOPTED** this 26th day of October, 2004.

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy, Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Luz E. Sandoval Walker  
Assistant City Attorney

# MEMORANDUM OF AGREEMENT

between the

**Department of Homeland Security  
Customs and Border Protection  
U.S. Border Patrol**

and the

**CITY OF EL PASO**

This Memorandum of Understanding is entered into between the City of El Paso, Texas hereinafter called "City" and the Department of Homeland Security, Customs and Border Protection, U.S. Border Patrol, for the Reimbursement of Expenses.

This Memorandum of Understanding is entered into by the City and the U.S. Customs and Border Protection, U.S. Border Patrol, for the purpose of setting forth procedures for receiving reimbursement costs incurred by the City of El Paso, El Paso Police Department in providing resources to Operation Stonegarden.

Payments may be made to the extent they are included in the funding provided for Operation Stonegarden through Texas Engineering Extension Service (TEEX), Texas A&M University System, 301 Tarrow, College Station, Texas 77840-7896. Phone: (979) 458-6800, the monies are available within the Department of Homeland Security fund to satisfy the request(s) for reimbursable overtime expenses, and such expenses are approved for payment by the Department of Homeland Security.

## **I. NAME OF JOINT OPERATION**

The name of this operation is Operation Stonegarden.

## **II. LIFE OF THIS MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is effective October 27, 2004 and terminates January 22, 2005

## **III. AUTHORITY**

This Memorandum of Understanding is established pursuant to the provision of Operation Stonegarden, which provides for the reimbursement of certain expenses of the City, El Paso Police Department incurred as a participant in joint operations with the U.S. Customs and Border Protection, U.S. Border Patrol law enforcement agency.

#### **IV. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding establishes the procedure and responsibilities of both the City, El Paso Police Department and the U.S. Customs and Border Protection, U.S. Border Patrol for the reimbursement of certain overtime expenses pursuant to Operation Stonegarden.

#### **V. CONDITIONS AND PROCEDURES**

##### **A. Assignment of El Paso Police Department officer(s).**

1. To the maximum extent possible, the City of El Paso shall assign dedicated officer(s) to the operation.
2. As of October 27, 2004, the effective date of this agreement, the City of El Paso, shall provide the U.S. Customs and Border Protection, U.S. Border Patrol, El Paso Sector Patrol Agent in Charge, George K. Cronin, with the names, titles and badge numbers of the officer(s) assigned to the operation.

Further, the City of El Paso shall provide the U.S. Customs and Border Protection, U.S. Border Patrol, PAC Cronin, with the average hourly overtime rate of the officer(s) assigned to the operation.

##### **B. Requests for reimbursement of Overtime Expenses**

1. The City may request reimbursement for the payment of overtime expenses directly related to work performed by its officer(s) assigned as members of Operation Stonegarden with the U.S. Customs and Border Protection, U.S. Border Patrol for the purpose of conducting official Homeland Security operations.
2. Invoices and/or daily officer sign-in sheets submitted for the payment of overtime by the City must be accompanied with an El Paso Police Department letterhead memorandum that requests reimbursement of expenses. Completed reimbursement invoices will be prepared by the El Paso Police Department, from the daily officer sign-in sheets and the officer daily activity log, and signed by Patrol Agent in Charge George K. Cronin of the El Paso Border Patrol Station or, in his absence, the Acting Patrol Agent in Charge.
3. The City shall submit all requests for reimbursable payments, together with appropriate documentation to the Texas Engineering Extension Service (TEEX), Texas A& M University System, 301 Tarrow, College Station, Texas 77840-7896 for each week for all reimbursable overtime work performed in the previous week.

4. The City shall certify that the request(s) are for overtime expenses incurred by the City for participation in Operation Stonegarden. The City shall also certify that requests for reimbursement of overtime expenses have not been made to other law enforcement agencies who may have participated with the operation.

The City acknowledges that they remain fully responsible for their obligations as the employer of the officer(s) assigned to the task force and are responsible for the payment of overtime earnings, withholdings, insurance coverage and all other requirements by law, regulation, ordinance or contract regardless of the reimbursable overtime charges incurred.

5. All requests for reimbursement of costs incurred by the City must be approved and certified by the U.S. Customs and Border Protection, U.S. Border Patrol. The U.S. Customs and Border Protection, U.S. Border Patrol Law Enforcement Agency shall countersign all invoices for payment.
6. The maximum reimbursement entitlement for overtime worked on behalf of Operation Stonegarden is set at \$400,000 provided to the City. Furthermore, the City is limited to a maximum of \$400,000 or whatever final amount is approved for this operation by U.S. Customs and Border Protection, U.S. Border Patrol for Operation Stonegarden.

### **C. Program Audit**

1. This Memorandum of Understanding and its procedure are subject to audit by the U.S. Customs and Border Protection, the Department of Homeland Security, Office of the Inspector General, the General Accounting Office and other government designated auditors. The City agrees to permit such audits and agrees to maintain all records relating to these transactions for a period of not less than three years; and in the even of an ongoing audit, until the audit is completed.

These audits may include reviews of any and all records, documents, reports, accounts, receipts or expenditures relating to this agreement, as well as the interview of any and all personnel involved in these transactions.

### **D. Revisions**

The term of this Memorandum of Understanding may be amended upon written approval of the City and the U.S. Customs and Border Protection, U.S. Border Patrol. The revision becomes effective upon the date of approval.

**E. No Private Right Created**

This is an internal government Memorandum of Understanding between the City and the Department of Homeland Security and Border Protection, U.S. Border Patrol and is not intended to confer any right or benefit to any private person or party.

For the City of El Paso:

For the U.S. Customs and Border Protection  
U.S. Border Patrol

\_\_\_\_\_  
Joe Wardy  
Mayor

  
\_\_\_\_\_  
George Cronin  
Patrol Agent in Charge

Date: \_\_\_\_\_

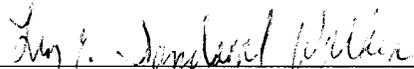
Date: 10/20/04

ATTEST:

\_\_\_\_\_  
Richarda D. Momsen  
City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Luz E. Sandoval Walker  
Assistant City Attorney

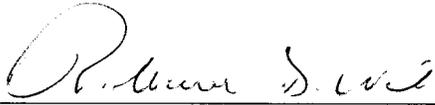
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Date

For U.S. Customs and Border Protection

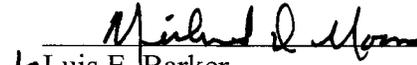
  
\_\_\_\_\_  
Christopher Ryan  
U.S. CBP Attorney

10-20-04  
\_\_\_\_\_  
Date

APPROVED AS TO CONTENT:



Richard D. Wiles, Police Chief  
El Paso Police Department



Luis E. Barker  
Chief Patrol Agent

Date: 10-21-04

Date: 10/21/04

APPROVED AS TO FORM: