

# **MEMORANDUM OF UNDERSTANDING**

**Between the  
City of Monterey**

**And the**

**Police Lieutenants' Management  
Association**

**July 1, 2008 to June 30, 2011**

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**EXHIBITS:**

1. Income Protection Plan
2. Internal Revenue Code Section 414(h)(2)
3. Substance Abuse Policy (PLMA)
4. Reimbursement Policy

# MEMORANDUM OF UNDERSTANDING

Between the

City of Monterey

And the

**Police Lieutenants' Management Association**

*July 1, 2008 to June 30, 2011*

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and the Employer-Employee Relations Resolution of the City of Monterey and is made by and between authorized representatives of the City of Monterey (hereinafter referred to as "City"), and the Police Lieutenants' Management Association (hereinafter referred to as "Association").

## **Section 1 Implementation**

This Memorandum of Understanding constitutes a mutual recommendation to be jointly submitted to the City Council. It is agreed that this Memorandum of Understanding shall not be binding upon the parties either in whole or in part unless and until ratified by the Association's membership, and unless and until the City Council acts, by a four-fifths vote, formally to approve this Memorandum of Understanding; and takes any other action required.

## **Section 2 Term of Agreement**

This Agreement shall be effective on July 1, 2008, and shall terminate at 12:00 midnight on June 30, 2011; except that it shall continue from year to year thereafter, unless and until a successor agreement is negotiated.

## **Section 3 Salary Adjustments**

During the term of this agreement, the following salary increase shall be made to the classifications represented by the Association in accordance with procedures established by the Finance Director.

- July 1, 2008                      7.0%
- July 1, 2009                      4.0%
- July 1, 2010                      4.0%

## **Section 4 Longevity Pay**

Effective July 1, 2008, the following longevity pays will be provided:

For those with at least twenty (20) years of continuous full time City of Monterey service or more, a 5.0% longevity pay will be provided.

For those with at least twenty-five (25) years of continuous full time City of Monterey service or more, an additional 5.0% longevity pay will be provided.

For those with at least thirty (30) years of continuous full time City of Monterey service or more, an additional 5.0% longevity pay will be provided.

## **Section 5                    Total Compensation**

This is not a total compensation agreement. The City and the Association agree that the principles of total compensation as traditionally practiced in prior agreements do not apply to this agreement. All adjustments to salary and benefits during the term of this agreement shall only be as set forth herein.

## **Section 6                    Hours Worked**

For the term of this Memorandum of Understanding, personnel represented by the Association and assigned to Field Operations, as a Patrol Lieutenant, shall work on a 4/10 Plan as determined by the Chief of Police.

Personnel represented by the Association, when assigned as other than a Patrol Lieutenant (Field Operations) may be assigned to work an eight-hour, five-day workweek schedule or a 4/10 Plan at the discretion of the Chief of Police. Likewise, personnel assigned to "light duty" or who are scheduled to attend training may be assigned to either schedule at the discretion of the Chief of Police.

It is not the intent of this modification to change any of the practices regarding the obligation of personnel represented by the Association to attend staff meetings and perform other work outside their regular work schedule.

Effective November 16, 2008, personnel represented by the Association and assigned to Field Operations, as a Patrol Lieutenant, shall work on a 4/10 Plan as determined by the Chief of Police.

Personnel represented by the Association, when assigned as other than a Patrol Lieutenant (Field Operations) may be assigned to work an eight-hour five day workweek schedule, a 9/80 schedule, or a 4/10 schedule. Employee preference will be considered; however operational needs of the organization shall take precedence. The Chief of Police shall make the final determination regarding the appropriate work schedule for the respective assignment. Nothing in this section, however, precludes the immediate altering of a duty assignment or changing of duty hours of any sworn personnel represented by the Association, if deemed necessary to assist in a temporary assignment or if needed for special duty, as determined by the Police Chief. Likewise, Personnel assigned to "light duty" or who are scheduled to attend training may be assigned to one of the above-mentioned schedules, at the discretion of the Chief of Police.

## **Section 7                    Insurance Coverage**

The following is a brief summary of insurance benefits. To the extent that the insurance programs detailed below continue to be available, the City will continue to offer these programs. Employees should refer to the plan documents for a complete description of benefits, coverage and limitations. If, during the term of this agreement, a change in insurance plans or coverage is necessary, the City shall provide notice thirty (30) days in advance, and, upon request, meet with representatives of the Association.

### 7.1 Major Medical

The City and the Association agree to continue in the Public Employees Medical and Hospital Care Act (PEMHCA).

On July 1, 1994, the \$100 per year per employee available for medical expense reimbursement and the average value of the City provided physical examination for employees between the ages of forty and forty-nine was converted to dependent medical cash-in-lieu. The Association and the City agree that the value of this conversion was \$30.75 per month per employee and was incorporated into the 1994-95 sum for cash-in-lieu at that time. Members of the Association agreed to continue to participate in the regularly scheduled medical examinations under the City's physical examination program at the employee's expense and this agreement continues under this agreement.

### 7.2 Dental/Orthodontia

The City and the Association agree to participation in Dental Plan D as constituted at the time of this agreement.

The City will continue to afford eligible employee dependents the opportunity to participate in an open enrollment every three years.

### 7.3 Vision Care

The City and the Association agree to participation in Vision Plan B as constituted at the time of this agreement.

### 7.4 Life Insurance

The City will continue to provide a \$30,000 Term Life Insurance and Accidental Death and Dismemberment Policy for each employee covered by this agreement. Additional Term Life Insurance may be purchased by each employee through payroll deductions or use of Elective Contributions as described below in increments of \$10,000 up to at least a maximum of \$50,000. The purchase of additional insurance shall be in accordance with payroll deductions procedures established by the Finance Director, the underwriting requirements of the insurance carrier, and any limitations imposed by Federal or State laws relating to the pre-tax purchase of life insurance.

### 7.5 Cafeteria Plan

During the term of this agreement, the following conditions shall apply to the insurance programs provided by the City in a cafeteria plan format. The provisions of this cafeteria plan require participation by the Association in the Public Employees Medical and Hospital Care Act (PEMHCA).

#### 7.5 a. Non-Elective Contributions/Premiums-

During the term of this agreement, the City contribution to insurance coverage will be as outlined below. Employees shall not have the option of using these contributions for any other purpose.

	<u>Plan</u>	<u>Current Amount</u>
1.	Medical	Applied toward premium - \$97.00/mo/employee
2.	Dental	Cost of premium for Employee only
3.	Vision	Cost of premium for Employee & dependents
4.	Life	Cost of basic \$30,000 policy

During the term of this agreement, should the dental (employee only premium), vision and/or life non-elective contributions/premiums increase, the City will pay these increases. Should, during the term of this agreement, the non-elective contributions/premiums for dental (employee only premium), vision, and/or life decrease, the City shall retain the savings from the decrease. The non-elective contribution/premium toward the medical will remain at \$97.00 per month per employee.

Effective January 1, 2009, and in accordance with State Law, the non-elective contribution/premium paid by the City toward the medical for active employees shall be adjusted annually by the PERS board to reflect any change to the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar. For January 1, 2009, the amount will be \$101.00 per month per employee.

7.5 b. Elective Contributions-

The City will contribute the following monthly HPSF amounts based on the employee's participation in PEMHCA:

The tiered amounts will be as follows:

Employee Opts Out of City Medical Plan	\$ 347.31
PEMHCA Medical—Employee Only	\$ 450.00
PEMHCA Medical—Employee Plus One	\$ 912.00
PEMHCA Medical—Employee Plus Two	\$1084.00

Effective January 1, 2009, the tiered amounts will be as follows:

Employee Opts Out of City Medical Plan	\$ 450.00
PEMHCA Medical—Employee Only	\$ 475.00
PEMHCA Medical—Employee Plus One	\$ 999.00
PEMHCA Medical—Employee Plus Two	\$1198.00

Effective January 1, 2010, the tiered amounts will be as follows:

Employee Opts Out of City Medical Plan	\$ 550.00
PEMHCA Medical—Employee Only	\$ 600.00
PEMHCA Medical—Employee Plus One	\$1115.00
PEMHCA Medical—Employee Plus Two	\$1323.00

Effective January 1, 2011, the tiered amounts will be as follows:

Employee Opts Out of City Medical Plan	\$ 550.00
PEMHCA Medical—Employee Only	\$ 650.00
PEMHCA Medical—Employee Plus One	\$1245.00
PEMHCA Medical—Employee Plus Two	\$1460.00

The City's HPSF contribution may only be applied to fund one or more of the following:

1. Medical coverage for the employee and dependents under PEMHCA;
2. Dependent dental coverage;
3. Additional term life insurance to the limits described above;
4. To make contributions toward dependent care as described in Section 7 of this agreement;
5. To make contributions toward flexible spending as described in Section 7 of this agreement; and/or
6. To take any unused cash value after selecting from the above options as taxable cash-in-lieu.

Not to be confused with the non-elective contributions contained in Section 7.5a, any increases in PEMHCA, dependent dental, and term life insurance rates or expenditures pursuant to Section 8 funded from the monies available to the employee under this sub section will be paid by the employee through their elective contributions and/or salary deductions. Decreases in PEMHCA, dependent dental, and term life insurance rates or expenditures pursuant to Section 7 will stay in the employee's Health Plan Spending Fund.

## **Section 8                      Section 125 Plan**

Employees may elect to participate in three Section 125 programs offered by the City. The available programs are Premium Conversion, Dependent Care, and Flexible Spending Account. Each of these programs will be administered in accordance with the IRS Code. Employees will pay any administration fee for this service through payroll deductions. The Flexible Spending Account carries a maximum participation of \$5,000 per employee, per calendar year.

For purposes of information, the following is a description of Premium Conversion, Dependent Care and Flexible Spending Account.

- Premium Conversion: Permits payment of health insurance premiums subject to salary deduction with pre-tax income.
- Dependent Care: Permits payment of eligible dependent care expenses (minor and/or adult) with pre-tax income.
- Flexible Spending Account: Permits payment of eligible health care expenses not reimbursed by health insurance with pre-tax income.

The above descriptions are not intended to supersede current Internal Revenue definitions or how these definitions may change from time to time. The descriptions are for informational purposes only.

The City will explore potential IRS enhancements to both flexible spending accounts, that specifically could allow a 2 1/2 month "grace period" for expenses to be incurred.

## **Section 9                    Integrated Short Term/Long Term Disability Plan**

The City shall provide a City-Paid combined insured Short Term Disability/Long Term Disability Plan (STD/LTD). In conjunction with the STD/LTD Plan, the following will apply:

### **A. Maintenance of Benefits:**

The City will continue to provide the employee HPSF (Health Plan Spending Fund), dental, vision, and life insurance, Employee Assistance Plan (EAP) and participation in the medical plan for up to a maximum of two (2) years per incident, subject to the following:

1. The person is an active employee; and,
2. The employee has at least one full day in a pay status during the month (either City pay or Disability payment).

### **B. Leave Accrual:**

1. If, due to an industrial injury or illness, an employee is in a pay status (either City pay or Disability Payment) for the majority of the month, leave accruals (sick leave, vacation, and holidays) shall continue for the first six months of the disability.
2. If, due to a non-industrial injury or illness, an employee receives disability payments for what constitutes the majority of the month, the employee shall not accrue leave.

## **Section 10                  Retirement**

The City will continue to provide the Public Employees' Retirement System (PERS) - Safety Retirement 3% at Age 50 for each employee covered by this agreement. Additionally, during the term of this agreement, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and/or contributions or credits (rebates) from PERS.

The employee shall pay his/her own employee contribution to PERS with the State and Federal income tax on the member contribution deferred to the extent authorized by IRS Code, 26 USC Section 414(h)(2), copy attached as Exhibit 2.

The City's contract with PERS for 3% at 50 shall contain among its benefits Military Service Credit as Public Service (Section 21024) subject to PERS requirements.

1959 Survivor Benefit:

The City will continue to provide the PERS Index Level of the 1959 Survivor Benefit. As required by Government Code Sections 21380-21387, including Section 21382.4, and related PERS regulations, each represented employee shall contribute any required PERS member contribution toward the cost of this benefit.

**Section 11                    Deferred Compensation — Match Program**

The City will match up to \$15.00 per pay period (\$30.00 per month) of an employee's contribution to a City Authorized Deferred Compensation Plan.

**Section 12                    Retirement Health Savings Plan**

The "Retirement Health Savings Plan" is a City funded health benefit savings program that allows employees to accumulate assets to pay for medical premiums and allowable health expenses at retirement (or upon meeting eligibility criteria) on a tax-free basis. The "Retirement Health Savings Plan" has the following components:

Eligibility:                    Employee must retire or separate from City service and have reached a minimum of age 50. Under certain circumstances the age requirement may be waived if the employee qualifies as disabled from work under the PERS retirement plan or under Workers' Compensation.

The City will contribute \$50.00 per month per employee to the Retirement Health Savings Plan (RHSP) described in Section 8A above, for those employees who were hired on or before December 13, 1995. The City's contribution and related investment results will then be provided to the employee upon separation, or retirement, as long as the employee reaches 25 years of City service in a sworn police position.

The City will contribute \$30.00 per month per employee to the Retirement Health Savings Plan (RHSP) described in Section 8A above, for those employees who were hired after December 13, 1995. The City's contribution and related investment results will then be provided to the employee upon separation, or retirement, as long as the employee reaches 25 years of City service in a sworn police position.

If an employee does not reach at least 25 years of City service or more, the City's contribution and investment results shall return to the City to offset further contribution costs.

If the employee chooses to contribute his/her own funds to the RHSP, the employee's funds and related investment results shall be available to the employee upon separation.

Effective January 1, 2009, the City shall contribute \$50.00 per month per employee to an RHSP. There shall no longer be different City contribution tiers based on hire date.

Effective January 1, 2009, the vesting requirement shall be reduced from 25 years of City service to 10 years of City service.

The City will attempt to find a way in which employees may contribute to a similar health savings plan. If such a program is found, and complies with all Internal Revenue Service regulations, or any other applicable law, the City will make such a program available to PLMA as soon as it is feasible.

The above descriptions are not intended to supersede current Internal Revenue Service regulations or how these regulations may change from time to time. These Internal Revenue Service regulations may affect the City's ability to provide this program. The descriptions are for informational purposes only.

### **Section 13            Group Legal Services**

The City will provide a Group Legal Services Plan for employees represented by the Association through an employee-paid premium. Participation in the program shall be voluntary and consistent with the provider's requirements that the potential pool of participants must include a minimum of 200 employees.

### **Section 14            Employee Assistance Program**

The City will continue to provide an Employee Assistance Program providing counseling service to the Association membership with substantially the same benefits to which existed at the time of the agreement.

### **Section 15            Wellness Program**

#### 15.1 Sports Center Pass

Upon submission of a completed City of Monterey Doctor Visitation form, employees shall receive annual, renewable and nontransferable employee-only passes to the Monterey Sports Center in order to implement their personal fitness programs. The Doctor Visitation form may be obtained from the Personnel Department. These passes shall be subject to renewal by City and may be discontinued on an individual basis for failure to comply with the program procedures or upon separation from City employment. Use of the Sports Center will be limited to off-duty hours.

Employees may apply the dollar value of the employee only pass to the Monterey Sports Center towards the purchase of a family pass to this facility. The employee shall be responsible for the cost differential between the credit value of the employee only pass and the family pass. Every twelve (12) months from the date of the purchase of the family pass, the employee shall be afforded the opportunity to make an election to continue crediting the value of the employee only pass towards the family pass which shall be irrevocable for the next twelve (12) months.

Employees electing to receive a family pass under this program shall have a payroll deduction for the cost to maintaining the family pass active from month to month based on the difference between the cost of the family pass and the employee only pass. Upon separation from the City, the family pass shall be cancelled unless the separated employee elects to maintain the pass under the same conditions available to the general public.

### 15.2 Implementation of a Random Drug and Alcohol Testing Program

The City and the Association agree it is to their mutual benefit to insure the workplace is drug free. The Substance Abuse Policy, attached as Exhibit 3, is intended to ensure employees are: (1) not using illegal drugs in or out of the workplace; (2) not using prescription or controlled medication in a manner other than as prescribed; or (3) not under the influence of drugs or alcohol while on duty. The City and the Association recognize that separate from testing employees for drug use based on "reasonable suspicion", a random drug testing program will achieve these goals, and the parties agree to participate in such a random testing program, as set forth in Exhibit 3.

### 15.3 No Smoking/ Use of Tobacco Products Policy

The Association and the City agree that smoking and/or the use of tobacco products is prohibited on duty and/or while on City premises, regardless of duty status. Violation of this policy can subject an employee to discipline.

## **Section 16                    Uniform Allowance**

The City will contribute the following monthly uniform allowance:

Current:	\$100.00/month
Effective July 1, 2008:	\$105.00/month
Effective July 1, 2009:	\$110.00/month
Effective July 1, 2010:	\$115.00/month

## **Section 17                    Tuition Reimbursement Program**

The Tuition Reimbursement allowance shall be \$900 per fiscal year per employee. Tuition reimbursement may be used to reimburse for job-related training and/or professional development expenses, subject to approval by the Police Chief. In determining eligible reimbursement expenses, the City's reimbursement policy shall be used to determine reimbursable expenses, as described in Exhibit 4 and as may be amended from time to time.

## **Section 18                    Vacation and Sick Leave**

During the term of this agreement, vacation and sick leave shall continue to accrue and be administered in accordance with the rules and regulations in existence at the time this agreement is implemented.

### 18.1 Family Sick Leave

In compliance with State law, an employee may utilize half (48 hours) of their annually accrued sick leave for a family illness. For purposes of this section, the current City definition of family as found in the Personnel Rules and Regulations section on Family Sick Leave (Monterey City Code Section 25.12.02d) shall apply.

### 18.2 Sick Leave Pay Out

Employees who retire on a regular non-disability retirement after twenty (20) years of sworn service shall be entitled to "sell back" fifty percent (50%) of accrued sick leave at their regular base hourly rate of pay. If an employee elects to utilize time available to him/her under the provisions of the PERS contract for sick leave service credit, such time applied to PERS service credit cannot also be applied to the "sell back" provision under this section.

### 18.3 Termination of Sick Leave Balances Upon Eligibility for An Industrial Disability Retirement

This Section shall not apply to employees represented by the Association on December 1, 1998. Such employees will retain the right to use sick leave balances upon eligibility for industrial disability retirement, when they are promoted or reassigned to a classification represented by the Association.

For employees hired or promoted after December 1, 1998 into a classification represented by the Association, the following will apply. Upon either the approval of an application by the employer for an industrial disability retirement, or upon the independent determination of the employer that an employee is industrially disabled, the employee shall not be entitled to use any remaining sick leave or any such remaining sick leave balance in the employee's account and, any remaining sick leave in the employee's account shall be void. This language is intended to give the employer rights to terminate sick leave under the provisions of Government Code Section 21025.2 as a "provision[s] of a local ordinance or resolution or the rule[s] or regulation[s] of the employer [which] provide[s] to the contrary". An application for industrial disability retirement, either employee or employer originated, shall not affect the employee's right under Worker's Compensation laws, such as any otherwise existing right to temporary disability (including Labor Code Section 4850 benefits for safety officers).

### 18.4 Sick Leave Use as Personal Leave

Up to sixteen (16) hours of accrued sick leave may be taken as Personal Leave during the calendar year, so long as the employee has a minimum of 150 hours of accrued sick leave on the books at the time the Personal Leave is taken. Approval for the use of Personal Leave shall otherwise be subject to the same use rules as vacation.

Effective January 1, 2009, up to twenty-four (24) hours of accrued sick leave may be taken as Personal Leave during the calendar year, so long as the employee has a minimum of 160 hours of accrued sick leave.

## 18.5 Vacation Accrual for Those With More Than 20 Years of Service

Employees with more than 20 years of service shall accrue annual vacation leave at the rate of 23 days (184 hours) per year. The monthly accrual rate, therefore, shall be 15 hours 20 minutes.

## **Section 19            Accounting for Leave Events**

The City and Association agree to conform with the policies embodied in the United States Department of Labor Regulations 29 CFR Section 541.5(d). Absence from work or duty, even if less than one day, for personal purposes or for illness or injury, shall be deducted from the employee's appropriate accrued leave bank. If insufficient leave exists in the appropriate leave bank, an absence shall be without pay for any portion not covered. It is recognized that the responsibilities and workload demands for certain positions require flexible scheduling and significantly more than a forty-hour work week to accomplish. In such cases, the department head and affected employee may establish an understanding of the appropriate application of this policy based on individual circumstances.

The minimum leave that can be taken by an employee for all leave events shall be fifteen minutes.

## **Section 20            Holidays**

### 20.1 Holiday Schedule

The holiday schedule was modified in 1994-95 to exchange Lincoln's Birthday holiday for the first working day after Christmas on a permanent basis.

### 20.2 Holiday Benefit

Consistent with the City's Personnel Rules (Section 25-12.04 b.2), holiday accrual shall be 8 hours per holiday. If any time is taken off for holiday time in excess of this amount during a work shift, that time must be accounted for by a reduction to the employee's appropriate leave bank, which may include accrued holiday time.

### 20.3 Floating Holiday

The Association's holiday schedule shall include one (1) floating holiday per fiscal year, per employee. This floating holiday may not be carried over into the following year and has no cash value. The scheduling is at the discretion of the employee, subject to approval by the department head.

Employees may rollover the floating holiday to the next fiscal year. In no case shall an employee be able to accrue more than 40 hours of accrued holiday time. There shall be no cash value for floating holidays. Effective November 16, 2008, the 40 hour limit of accrued holiday time shall increase to 80 hours.

## 20.4 Holiday Pay

For purposes of Holiday Pay compensation, PLMA represented employees shall be compensated in cash or holiday time off at the base straight-time rate of pay for all hours worked on a City holiday (**up to 8 hours**). Further PLMA will support the City in amending its Personnel Rules (Section 25-11.06) to include Police Management employees under 25-11.06 (3). Therefore, the subsection title for 25-11.06 (3) will read: "Police Employees—Lieutenants and Non-Management."

### **Section 21                    Management Leave**

Employees shall be provided with 40 hours of "use it or lose it" management leave at the beginning of each calendar year. Unused time may not rollover to the next year, and there shall be no cash value for management leave time.

For those employees who are new to PLMA (for example—a newly promoted Lieutenant, or one who is hired to the Lieutenant classification from another agency), the amount of provided management leave in the initial calendar year of appointment shall be prorated based on the following schedule according to hire date:

If hired January 1 to March 31	40 hours of Management Leave
If hired April 1 to June 30	30 hours of Management Leave
If hired July 1 to September 30	20 hours of Management Leave
If hired October 1 to November 30	10 hours of Management Leave
If hired December 1 to December 31	0 hours of Management Leave

### **Section 22                    Management Compensation Pay**

Due to the unique aspects of their normal job duties, employees shall receive Management Compensation Pay in lieu of management leave in the amount of 1.92% of the employee's base salary. This will be administered in accordance with the definition of Management Compensation Pay in the City of Monterey Personnel Rules and Regulations (Chapter 25 of the Monterey City Code).

### **Section 23                    Management Unpaid Leave**

With advanced department head approval, an employee may take up to forty (40) hours of Management Unpaid Leave per calendar year. Such leave may be taken in one (1) hour minimum increments.

Further, so long as the employee is in a paid status at least half of the month, such unpaid leave shall not result in a loss of benefits or leave accruals.

### **Section 24                    Rotation of Assignment Notification**

A minimum two-week (14 calendar days) notification for rotation of assignment among the Lieutenants will be provided prior to an actual rotation in Division duties / responsibilities (Support to Police Operations or Police Operations to Support or within Police Operations). This does not preclude a temporary assignment rotation due to unforeseen or exigent circumstances.

## **Section 25            Discipline**

The Association agrees to support changes to the Personnel Rules (Sections 25-14.01, 25-14.08c, and 25-14.05 of the Monterey City Code) which will now reflect that Written Reprimands shall not be removed from an employee's Personnel File, and to remove references delegating authority to discipline to ranks below the Chief of Police.

## **Section 26            Dues Deductions**

Membership dues of the Association and such other deductions as may be properly requested and lawfully permitted shall be deducted by the City from the salary of any employee who files with the Finance Director a written authorization requesting that such deductions be made. Remittance of the aggregate amount of all dues and other proper deductions made from the salaries of employees covered hereunder shall be made to the Association by the City as promptly as practical, in conformance with MCC Section 25-16.14.

## **Section 27            Provisions of Law**

This agreement is subject to all current and future applicable Federal and State laws and regulations. If any part or provision of this Agreement is in conflict or inconsistent with such applicable laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulation and the remainder of this Agreement shall not be affected thereby.

## **Section 28            Full Understanding, Modification and Waiver**

This agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters contained herein are hereby superseded or terminated in their entirety.

Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this agreement.

No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed by all parties.

In the event any new practice, subject or matter arises during the term of this agreement that is within the scope of meet and confer, and an action is proposed by the City, the Association shall be afforded all possible advance notice and shall have the right to meet and confer upon request. In the absence of an agreement on such a proposed action, the City reserves the right to take necessary action by management direction.

Nothing herein shall limit the authority of the City to make necessary and reasonable changes during emergencies. However, the City shall notify the Association of such changes as soon as practicable. Such emergency assignments shall not extend beyond the period of the emergency.

The waiver of any breach, term or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

The parties hereto have caused their duly authorized representatives to execute this Memorandum of Understanding the day, month and year noted below.

City of Monterey

Police Lieutenants' Management Association

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Manager

President, PLMA

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Approved as to Form:

\_\_\_\_\_  
Deborah Mall, City Attorney