

MPA

**Memorandum of Understanding**  
between the  
**City of Monterey**  
and the  
**Monterey Police Association/Laborers' International Union of North America**

**July 1, 2005 to June 30, 2008**

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and the Employee Relations Regulations of the City of Monterey (City Code Section 25-16) and is made by and between the City of Monterey (hereinafter referred to as "City"), and the Monterey Police Association/Laborers' International Union of North America (LIUNA) (hereinafter referred to as "Association"). The City and the Association recognize all members of the Monterey Police Department in the rank of Police Officer and Police Sergeant, herein referred to as "employee(s)", are governed by this agreement.

**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; appropriates the necessary funds required to implement the provisions of this Memorandum of Understanding which require funding; and takes any other action required.

**Section 2 - Term of Agreement**

This agreement shall be effective July 1, 2005. This agreement is for a period of three (3) years and shall terminate at 12:00 Midnight on June 30, 2008; except that its provisions, except as noted, shall continue from year to year thereafter, unless and until either party fulfills the requirements set forth below.

In the event either party desires to negotiate a successor agreement, such party shall serve upon the other during the month of April of the last year in the term of this agreement, its written notice to commence negotiations, as well as its initial written proposals for a successor agreement.

Negotiations shall begin no later than 30 days from the timely receipt by one party of the other party's notice and initial proposals for a successor agreement.

**Section 3 - Salary Adjustments**

During the term of this agreement by the City and the Association, the following salary increases

shall be made to the classifications represented by the Association in accordance with the procedures established by the Finance Director.

- January 1, 2006 3%
- December 1, 2006 9% (Which represents previously negotiated 1/1/07 3.0% COLA and newly agreed to 6.0% Market Adjustment)
- July 1, 2007 8% (Which represents previously negotiated 7/1/07 3.0% COLA and newly agreed to 5.0% Market Adjustment)

#### **Section 4 - Merit Salary Steps**

There shall be a one-year performance review period between each step of the salary range, with exceptions allowed in accordance with the Personnel Rules and Regulations in Section 25-5 of the Monterey City Code.

#### **Section 5 - Insurance Coverages**

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 if at all possible, and, upon request, meet with representatives of the Association.

For the period of July 1, 2005 through June 30, 2008, only the following conditions apply to the insurance programs provided by the City in a cafeteria plan format. The provisions of this cafeteria plan require participation by an employee in one of the medical plans described below in order to receive pre-tax benefits.

##### A. Non-Elective Contributions/Premiums

The City contribution to insurance coverages is as outlined below. Employees shall not have the option of using these contributions for any other purpose.

<u>Plan</u>	<u>Amount</u>
1. Medical	Applied toward premium of a City sponsored plan - \$48.40/mo/employee
2. Dental (Plan D)	Cost of premium for employee only
3. Vision	Cost of premium for employee and dependents. Effective as soon as practical, the Association's vision coverage will be moved to Vision Plan B by the City

4. Life Cost of Basic \$20,000 policy

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 \$48.40 per month per employee.

Effective January 1, 2006, and in accordance with State law, the non-elective contribution/premium paid by the City toward the medical will increase to \$64.60 per month per employee.

Effective January 1, 2007, and in accordance with State law, the non-elective contribution/premium paid by the City toward the medical will increase to \$80.80 per month per employee.

Effective January 1, 2008, and in accordance with State law, the non-elective contribution/premium paid by the City toward the medical will increase to \$97.00 per month per employee.

B. Elective Contributions - Health Plan Spending Fund

The City will contribute a monthly sum to the employee's Health Plan Spending Fund (HPSF) in the amount indicated below based on the employee's status in PEMHCA and the employee's participation tier:

For the period of January 1, 2005 through December 31, 2005 the tiered amounts are as follows:

1.	LIUNA Medical Trust (Employee Opts Out of City Medical Plan)	\$665.00
2.	Employee opts out of City Medical Plan	\$470.74
3.	PEMHCA Medical—Employee Only	\$470.74
4.	PEMHCA Medical—Employee Plus One	\$665.00
5.	PEMHCA Medical—Employee Plus Two	\$790.00

Effective January 1, 2006, the tiered amounts will be as follows:

1.	LIUNA Medical Trust (Employee Opts Out of City Medical Plan)	\$843.60
2.	Employee opts out of City Medical Plan	\$470.74
3.	PEMHCA Medical—Employee Only	\$470.74
4.	PEMHCA Medical—Employee Plus One	\$779.00
5.	PEMHCA Medical—Employee Plus Two	\$901.00

Effective January 1, 2007, the tiered amounts will be as follows:

1.	LIUNA Medical Trust (Employee Opts Out of City Medical Plan)	\$921.80
2.	Employee opts out of City Medical Plan	\$470.74
3.	PEMHCA Medical—Employee Only	\$470.74
4.	PEMHCA Medical—Employee Plus One	\$841.00
5.	PEMHCA Medical—Employee Plus Two	\$988.00

Effective January 1, 2008, the tiered amounts will be as follows:

1.	LIUNA Medical Trust (Employee Opts Out of City Medical Plan)	\$1009.00
2.	Employee opts out of City Medical Plan	\$470.74
3.	PEMHCA Medical—Employee Only	\$470.74
4.	PEMHCA Medical—Employee Plus One	\$912.00
5.	PEMHCA Medical—Employee Plus Two	\$1084.00

This City HPSF contribution may only be applied towards the following benefits:

1. Medical coverage for the employee and the employee's dependents under PEMHCA;
2. Dependent dental coverage;
3. Additional term life insurance above the basic policy provided by the City up to the limits described in C below;
4. To make contributions toward dependent care as described in Section 6 (Section 125);
5. To make contributions toward flexible spending as described in Section 6 (Section 125);
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 5.A, any costs or increases in rates and/or contributions for items B1 - B5 which exceed the amount provided by the Health Plan Spending Fund will be paid by the employee through cash-in-lieu and/or salary deduction. Decreases in rates and/or contributions for items B1 - B5 which result in unexpended Health Plan Spending Fund monies on the part of the employee will stay in the employee's cash-in-lieu.

### C. Life Insurance

The City will provide a \$20,000 Term Life Insurance and Accidental Death and Dismemberment Policy for each employee covered by this agreement. Employees, at their option and at their cost, may purchase up to an additional \$50,000 of Term Life Insurance and Accidental Death in \$10,000 increments at the prevailing premium assessed by the City's carrier and subject to the conditions of the City's carrier. Further, with the insurance carrier's approval, the cap may be removed. 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.

### **Section 6 - "Section 125 Programs"**

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 year.

For purposes of information, the following is a description of premium conversion, dependent coverage 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 City allows the health premiums for those employees who participate in the LIUNA Medical Trust to be deducted on a pre-tax basis, subject to the conditions set forth by the Public Employees Retirement System.

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.

### **Section 7 - Retirement**

The City will continue to provide the Public Employees' Retirement System (PERS) Safety Retirement 3% @ 50 for each employee covered by this Memorandum of Understanding.

The City's contract with PERS contains the following amendments:

1. Highest twelve (12) consecutive months for purposes of determining final compensation (Section 20042).
2. Sick leave credit/conversion to service time (Section 20965).
3. 1959 Survivor Benefit PERS Index Level (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).
4. Military Service Credit as Public Service (Section 21027)
5. Exclusion of hourly rated employees.

Effective July 1, 1997, the City ceased paying the employee's contribution to PERS in accordance with 26 U.S. Code 414(h)(2) and converted that amount (9% of salary as of the time of conversion) into the salary schedule. As a result of this action the employee is responsible for payment of the employee contribution to PERS.

## **Section 8 - Retirement Health Savings Plan (RHSP)**

### A. Employee Funded RHSP

The "Retirement Health Savings Plan" is an employer-sponsored health benefit savings program that allows employees to contribute and 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 <u>and</u> 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.  |
| Contributions: | <ol style="list-style-type: none"> <li>1. An employee may make a one-time irrevocable election to have an on-going pre-tax salary deduction of 1 – 20% (whole percentages) of the employee's base rate of pay and,</li> <li>2. An employee may also elect on an annual basis, in a year <u>pre-ceeding</u> retirement or separation, to make an irrevocable pre-tax deduction up to 100% (whole percentages) of his/her accrued vacation, holiday, CTO, and sick leave (in accordance with MOU section 24 "Sick Leave Payout") separation payoffs.</li> </ol> |

Contributions into the Retirement Health Savings Plan are voluntary, and are made only by the employee; there are no employer contributions. The employee will pay all administrative fees. The employee will be allowed to make his/her irrevocable election within 30 days of hire as a full-time employee, and/or during the City's annual open enrollment period.

If a participating employee dies without designating a beneficiary, the distribution of any assets contained in the employee's account shall be distributed equally among City-wide participants in the plan.

#### B. City Funded RHSP

Effective January 1, 2006, 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.

Effective January 1, 2006, 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.

#### C. Disclaimer

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 9 - Deferred Compensation - Match Program**

The City will match up to \$7.50 per pay period (\$180 per employee per year) of an employee's contribution to a City authorized Deferred Compensation Plan.

Effective January 1, 2007, the City will match up to \$10.00 per payperiod (\$20.00 per month) of an employee's contribution to a City Authorized Deferred Compensation Plan.

Effective January 1, 2008, the City will match up to \$12.50 per payperiod (\$25.00 per month) of an employee's contribution to a City Authorized Deferred Compensation Plan.

#### **Section 10 - Total Compensation**

The City and the Association agree that the principles of total compensation as used at one time in earlier agreements no longer apply. All adjustments to salary and benefits during the term of this agreement shall be as set forth herein.

## Section 11 - Uniform Allowance

The City will contribute the following monthly uniform allowance:

<u>Effective Date</u>	<u>Patrol</u>	<u>Special Unit*</u>
Current	\$75.00	\$90.00
1/1/2006	\$90.00	\$110.00
7/1/2006	\$95.00	\$125.00
7/1/2007	\$100.00	\$140.00

\*Special Unit is defined as those personnel assigned to the Traffic Unit, Community Action Team (CAT), and the Canine Unit (and their successor units should titles change in the future).

Additionally, personnel newly appointed to the Traffic, Canine and CAT units will receive a one-time payment of \$450 to apply to uniform and equipment purchases.

Effective December 13, 2005, all new uniform purchases shall follow the revised uniform policy—specifically, all new shirts and pants shall be 100% wool. By the end of the term of this agreement (June 30, 2008), all uniforms shall be subject to the revised uniform policy.

## Section 12 - Call Back Compensation

Employees shall be entitled to call back compensation when they are summoned to work outside their regularly scheduled duty time. If an employee is required to report for duty or any other required work assignment, the employee shall receive a minimum of two hours overtime or be compensated for the actual time worked, whichever is greater (see exceptions.)

Exception 1: If the call back is within one hour of an employee's regularly scheduled duty start time they will be compensated for actual time worked.

Exception 2: If an employee has been given the option of fulfilling the duty requirement (e.g., training, semi-annual shoot, etc.) during their regularly scheduled duty time and opts to respond at another time that is outside their regularly scheduled duty time, they will not be entitled to the two-hour minimum, unless prior approval has been obtained from a supervisor.

Exception 3: If an employee attends and/or participates in a job related event that is outside their regularly scheduled duty time when their attendance and/or participation in such event is optional, they will not be entitled to the two-hour minimum, unless prior approval has been obtained from a supervisor. This exception shall not apply to optional overtime duty for special event staffing, for which the two-hour minimum call back compensation shall apply, provided no other exceptions are applicable.

Exception 4: If the call back requires a job related court appearance by an employee, they shall be compensated as specified in the Court Time Compensation Section of the MOU.

Instances where call backs may occur include but are not limited to: 1) Staffing shortages, 2) Major criminal or accident investigation/staffing, 3) Hostage and critical incident responses, 4) Special event staffing, 5) Physical agility testing, 6) Range qualification, or any other circumstance that would require an employee to report for duty outside their regularly scheduled duty time.

Employees shall be compensated in cash at the rate of 1 ½ times their regular rate of pay, or in lieu of pay, an employee may receive credit of compensatory time off at the rate of 1 ½ times the number of hours worked.

### **Section 13 - Special Assignment Differential Pay**

A 5% pay differential over base salary shall be paid to an employee in the classification of Police Officer or Police Sergeant who is formally assigned to and capable of performing the duties in accordance with departmental procedures of those positions that are identified as special duty assignments. Special duty assignment differential is provided for these positions because: 1) duties are substantively different from those of a Patrol Officer or a Patrol Sergeant; and 2) they require knowledge, skills and abilities distinct from those of a Patrol Officer or a Patrol Sergeant. For the purposes of this section, neither the Canine Officer positions nor the maximum six (6) Field Training Officer (FTO) positions are considered Patrol Officers.

The following list of special duty assignments shall receive the Special Assignment Differential Pay:

#### POLICE OFFICER

Canine Officer, Community Action Team (CAT) Officer, Detective, Field Training Officer (FTO), Public Education Officer (PEO), School Resource Officer (SRO), \* Senior Detective, Traffic Officer , and Senior Traffic Officer.

\* Senior Detective and Senior Traffic Officer receive a 10% pay differential (over police officer base salary) based upon their job requirements, duties and function

#### POLICE SERGEANT

Special Services Sergeant, Detective Sergeant, Traffic Sergeant, Training Sergeant

Additionally, employees serving as Canine Officers will be credited nine (9) hours per pay period (deduct 9 hours from normal scheduled time) for time spent outside regularly scheduled hours. Temporary "Light Duty Assignments" are not considered special duty assignments.

New special duty assignments, within the definition of this section, may be created and/or authorized by the Police Chief with the approval of the City Manager.

Effective January 1, 2007, those who are assigned as Field Training Officer Sergeants shall receive a 5.0% pay differential over base salary. Accordingly, the FTO Sergeant classification shall be added to the "Police Sergeant" list above, and subject to the same conditions, of Police Sergeants who receive Special Assignment Differential Pay referenced herein.

## **Section 14 - Shift Differential Pay**

Effective January 1, 2006, employees assigned to the graveyard shift (9:30 p.m. to 7:30 a.m.), and in a pay status for the majority of the month, shall receive a 5.0% shift differential over base salary per month.

Effective January 1, 2006, employees assigned to the swing shift (4:30 p.m. to 2:30 a.m.), and in a pay status for the majority of the month, shall receive 2.5% shift differential over base salary per month.

## **Section 15 - Bi-Lingual Pay**

Employees shall have the opportunity to demonstrate foreign or sign language proficiency and subsequently be bilingual certified. An employee who receives such certification shall be eligible to receive compensation equal to 5% of his/her base monthly salary.

To maintain eligibility an employee must meet all of the requisite policy criteria, including but not limited to: 1) Target language must be approved by Police Chief, 2) Must demonstrate language proficiency through standardized testing, 3) Must be successfully re-certified every 36 months, and 4) Target language must continuously meet existing needs of department, City, and community.

## **Section 16 - Stand-By Compensation**

Employees assigned as Detectives in the General Investigations unit of the City of Monterey Police Department shall be paid an additional \$180 per week when assigned to stand-by in accordance with departmental procedures. Where an assignment is made for less than one week the allowance shall be pro-rated.

Effective January 1, 2006, employees assigned as Detectives in the General Investigations unit of the City of Monterey Police Department shall be paid an additional \$200 per week (increased from \$180 per week) when assigned to stand-by in accordance with departmental procedures. Stand-by shall be defined as that circumstance which requires an employee who is not on duty and assigned by the department to:

- A. Be ready to respond immediately to a call for service;
- B. Be readily available at all hours by telephone or other agreed upon communication equipment; and
- C. Refrain from activities which might impair their assigned duties upon call.

## **Section 17 - Court Time Compensation**

When an employee is summoned to appear in court outside their regularly scheduled duty time and the court appearance is as a result of actions taken in their official capacity as a police officer, the employee shall receive a minimum of three hours overtime or be compensated for the actual time worked, whichever is greater. An exception shall be that if the court time is within 1 ½ hours of the employee's regularly scheduled duty start time they will be compensated for actual time worked.

If an employee appears in court on a regularly scheduled work day during a period when they have opted to utilize approved or noticed leave (i.e., vacation, comp. time, sick time, bereavement, etc) for more than ½ their regular work shift, they shall receive the three-hour minimum compensation. An employee who is on administrative leave as a result of a disciplinary action shall not be entitled to the three-hour minimum.

Court time shall be compensated in cash at the rate of 1 ½ times their regular rate of pay, or in lieu of pay, an employee may receive credit of compensatory time off at the rate of 1 ½ times the number of hours worked.

### **Section 18 - Overtime, Compensatory Time Off, Holiday Time, and Special Services Minimums**

Overtime shall be defined as those hours authorized and worked by an employee who is eligible for overtime compensation in excess of eight (8) hours per day for an employee on a regular 5/8 hour work schedule; in excess of ten (10) hours per day for an employee on a 4/10 hour work schedule; or hours worked on an employee's regularly scheduled day off.

Employees shall be paid cash at the rate of one-and-one-half times their regular rate of pay for the actual hours worked. In lieu of pay for overtime work, an employee may receive credit of compensatory time off (CTO) at the rate of one-and-one-half times the actual hours worked. Department approval is required for all requests for the use of CTO prior to being granted. In no event shall an employee regularly assigned to a 4/10 schedule be authorized to use compensatory time if such will require overtime based on departmental staffing policy. CTO may be accumulated to a maximum of 40 hours; hours in excess will be paid as cash. CTO will be scheduled in accordance with established Police Department procedures for time off.

Overtime paid in cash and compensatory time will be paid in accordance with procedures established by the Finance Director.

Effective October 31, 2003 and every October 31 of each year thereafter, employees may either receive pay for unused CTO or maintain unused CTO as CTO leave. If an employee does not make a selection, the entire CTO balance as of October 31 will be paid. Any payments will be made the second payday in November. In no case may an employee maintain more than 40 hours of accrued CTO in their leave bank.

Overtime minimums for the following activities that are contracted through the City are:

- A. For house moving, special traffic control (including parades and commercial filming) and similar services, the officer(s) shall be guaranteed a minimum of three (3) hours.
- B. For dances, private parties, special events and other similar services, the officer(s) shall be guaranteed a minimum of four (4) hours.

## **Section 19 - Training Travel Time**

Travel to normal, contemplated mandated training (e.g. POST or Department required training), as distinguished from special, unusual or unanticipated training, is not compensable (credited towards overtime) except to the extent it necessarily occurs during scheduled work time.

## **Section 20 - Education Incentive Program**

Employees hired by the City prior to July 1, 1990, will continue to be eligible to participate in the Education Incentive Plan (EIP) as outlined in City Code Section 25-11.07 (Educational Incentive Plan). Employees hired by the City after July 1, 1990, will not be eligible to participate in the Education Incentive Plan as outlined in City Code Section 25-11.07.

All employees who have completed their initial police officer probationary period may participate in the Department's Continuing Education Incentive Program (CEIP) provided, however, that an employee may not participate in both EIP and CEIP. Such participation will be subject to the rules of the CEIP as maintained in the Departmental CEIP policy. Employees participating in CEIP may be eligible to receive five (5) percent premium pay on base salary for a Baccalaureate and a seven and a half (7.5) percent premium pay on base salary for a Masters Degree subject to the provisions of CEIP. Additionally, officers participating in CEIP are required to meet a continuing job related educational requirement as outlined in the Departmental CEIP policy to maintain eligibility for the above described premium pay.

The City shall consider CEIP as part of base pay.

## **Section 21 - Tuition Reimbursement**

Employees shall be entitled to Tuition Reimbursement pursuant to the City's Tuition Reimbursement Program at an amount of \$900 per year per employee. Tuition Reimbursement may be used for educational classes, training courses, seminars, conferences, and other approved courses that are job related, and up to 30% of the annual amount may be used by an employee for room and board directly related to an approved course of study. The conditions of this reimbursement program shall be determined by the Department's Tuition Reimbursement Policy, and the coursework undertaken must have the prior written approval of the appropriate Division Commander or Police Chief.

Effective July 1, 2006, the City shall increase the fiscal year tuition reimbursement from \$900 to \$1000.

## **Section 22 - Vacation and Sick Leave**

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

Sick leave shall continue to be accrued and subject to all other use rules and regulations which exist at the time this agreement is implemented.

A represented employee may use up to half the amount of sick leave the employee accrues on an annual basis to attend to an illness of the employee's immediate family member as defined by the City Personnel Rules in Section 25-12.02(d).

This Section does not extend the maximum period of leave to which an employee is entitled under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2606, et seq.), the California Family Rights Act (Government Code Section 12945.2), and City policies implementing these Acts regardless of whether the employee receives sick leave compensation during that leave.

Effective January 1, 2006, the City shall increase the amount of accrued sick leave to care for a critically ill family member from 32 hours to 40 hours per calendar year. The maximum combined allowable use of sick leave to care for a critically ill family member or for the death of a family member shall not exceed 80 hours in any calendar year for a single family member.

Effective January 1, 2006, employees with more than 20 years of service shall accrue annual vacation leave at the rate of 23 days per year. ("Days" shall equal 8 hours, as it is currently reflected in the Personnel Rules.)

### **Section 23 - Sick Leave/Industrial Disability Retirement**

Upon either the approval of an application by a unit employee for 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, and any remaining sick leave balance in the employee's account shall be cancelled. This provision is intended to exercise the employer's rights under Government Code Section 21163.2. Incumbents in a class represented by the unit as of January 1, 1999 are not subject to this provision.

### **Section 24 - Sick Leave Payout**

Employees who retire on a regular non-disability retirement with a minimum of fifteen (15) years of sworn service, and up to twenty (20) years of sworn service shall be entitled to "sell back" 25% of accrued sick leave at the rate of final base pay. Employees who retire on a regular non-disability retirement with twenty (20) or more years of sworn service shall be entitled to "sell back" 50% of accrued sick leave at the rate of final base pay. Sworn service must be with the City of Monterey. If an employee elects to utilize time available to him/her under the provision of the PERS contract for sick leave service credit, such time cannot also be applied to the "sell back" provision under this section.

### **Section 25 - Sick Leave Used as Personal Leave**

Effective January 1, 2006, 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 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.

## **Section 26 - Voluntary Unpaid Leave Time**

Upon the approval of the Chief of Police or designee, employees may take unpaid time off (up to 80 hours per fiscal year) for specific circumstances, which would include if the request is for the purpose of improving the training of the employee for their position or career in City Service, if the request is for an extended illness for which paid leave is not available, or if the request is in the event of urgent personal affairs that requires the full attention of the employee.

## **Section 27 - Holiday Schedule**

The holiday schedule shall include one floating holiday per year. Such floating holiday shall not accrue from fiscal year to fiscal year and shall expire if not used on or before the last day of June annually. Additionally, before the floating holiday can be taken by the employee, it must be approved by the Police Chief, or his/her designee, and cannot be granted if the time requested will require, in the Police Chief's judgment, the use of other personnel in an overtime status. This floating holiday will not have any cash value.

The holiday schedule has been modified to exchange the Lincoln's Birthday holiday for the first working day after Christmas.

Effective January 1, 2006, 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.

## **Section 28 - Definition of 4/10 Plan and Utilization**

For the term of this Memorandum of Understanding unless noted herein, all sworn personnel represented by the Association and assigned to Patrol (including the Canine Unit) shall work on the 4/10 Plan. Nothing in this agreement shall preclude the Police Chief, with the concurrence of the City Manager, from assigning sworn personnel represented by the Association to a different work week schedule in the event of an economic emergency declared by the City Council, reductions in the number of sworn personnel, and/or during periods of declared emergency.

Sworn personnel represented by the Association when assigned to Traffic or Investigations may be assigned to work on the 4/10 Plan or an eight hour, five day per week work schedule at the discretion of the Police Chief. Likewise, personnel assigned to "light duty" or training may be assigned to either schedule at the discretion of the Police Chief. Reasonable notice will be provided employees by the Police Chief prior to changing the work schedule.

Sworn personnel represented by the Association who are not covered by one of the above two paragraphs in this section shall work an eight hour, five day per week work schedule. 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 defined by the Police Chief.

Effective January 1, 2006, employees currently scheduled on a 4/10 schedule, shall revert to a schedule which will be similar in nature to the "old 4/10 schedule." The "Old 4/10 schedule" encompasses the following elements: *The patrol division will utilize a modified 4/10 plan based upon a seven-week cycle in which double-up days adjust ahead one day each week. Under this schedule, days off adjust ahead one day each week as well. The double up days are staggered for Watch 3; their work schedule is one week ahead of the other two watches and, thus, their double up day occurs one day earlier. The staggered double up days are subject to consolidation to a single day each week at the discretion of the Chief of Police.*

Effective January 1, 2006, Police officers and sergeants assigned to Patrol shall be subject to shift and platoon reassignment on an annual basis. Community Action Team, Traffic and Canine assignments shall be at the discretion of the Chief of Police.

Police officers and sergeants shall, by September 30<sup>th</sup> of each year, submit their first and second choice shift preferences for the following year to the Field Operations Deputy Chief. Preferences shall be submitted on a form established by the Department.

Annual shift reassignments shall normally occur in the third week of January each year. The specific date will be chosen and announced each year so as to correspond with schedule, payroll, and other relative concerns.

#### Shift Assignment Considerations

The Field Operations Deputy Chief will make annual shift assignments taking the following factors into consideration:

- Employee preference.
- Employee seniority.
- Special considerations such as a relevant outside education schedule.
- Number of years that the employee has served in his or her non-preferred shift.
- Number of years that the employee has served in his or her preferred shift.
- Operational needs of the Department, including but not limited to:
- Employee development, and
- The need to maintain an appropriate balance of experience on each shift.

#### Field Training Officers

The Department's six Field Training Officers (FTOs) shall be assigned as follows:

- Two on day shift (one on each platoon)

- Four on swing shift (two on each platoon)

FTOs may bid for these assignments during the Department's annual shift reassignment process. FTO shift assignments will be made on the basis of seniority in the rank of police officer. An FTO, regardless of seniority, shall be assigned to a different shift for at least one year if they have served as a police officer on the same shift for five consecutive years.

#### Senior Police Officers (SPO)

In addition to the FTO positions, the Department will designate six patrol positions for "Senior Police Officers." For the purposes of this agreement, a Senior Police Officer (SPO) is a police officer who has served with the Monterey Police Department for five or more years by January 1<sup>st</sup> of the year for which the annual shift reassignment process is to apply.

SPO positions shall be assigned as follows:

- Two on Day shift (one on each platoon)
- Two on Swing shift (one on each platoon)
- Two on Night shift (one on each platoon)

SPO positions will be filled on the basis of seniority during the Department's annual shift reassignment process.

If fewer than six SPOs bid for the designated positions, the remaining positions will be filled on a reverse (SPO) seniority basis utilizing the following guidelines:

- Initially, the positions will be filled with the SPOs with the least seniority within the SPO group.
- After one year, the SPO may bid out of the assignment, and
- the SPO will be exempt from involuntary reassignment to the same position for two years following completion of the assignment.
- When necessary, subsequent positions will continue to be filled with the SPOs with the least seniority within the SPO group, excluding those with exemptions in effect.

SPOs, regardless of seniority, shall normally be assigned to a different shift for at least one year (twelve consecutive months) if they have served on the same shift for five consecutive years. After completing such a five-year assignment, the SPO may select their current shift as one of their two preferences and, generally, the SPO will be assigned to one of their shift choices.

### Police Officers with Less than Three Years Service

Police Officers with less than three years service with the Department will be assigned to shifts and platoons at the Department's discretion. At least two officers with less than three years service will be assigned to the Day shift.

### Sergeants

One position on swing shift (either Platoon) will be reserved for the FTO Sergeant with the most seniority (time in classification as Sergeant).

Sergeant positions will be filled on the basis of the *Shift Assignment Considerations* during the Department's annual shift reassignment process. Seniority will be considered but will not be the overriding factor in determining reassignment. The intent is to provide opportunities to work each of the different shifts.

Sergeants, regardless of seniority, shall be assigned to a different shift for at least one year (twelve consecutive months) if they have been assigned to the same shift for two consecutive years.

### Annual Publication of Shift Assignments

The Department will publish shift and platoon assignments for the upcoming year by November 1<sup>st</sup>.

NOTE: The negotiations timeline for this MOU may require an adjustment to the due date for the submission of 2006 shift assignment preferences and the publication of shift assignments by the Field Operations Deputy Chief.

Prior to the publication of the shift and platoon assignments, the Field Operations Deputy Chief will give notice to the MPA President and offer the opportunity to meet prior to the finalization of such assignments. This meeting will allow MPA to review the proposed shift assignments and offer any input and/or recommendations that they may have. MPA's role and authority in this process shall be strictly advisory. A maximum of two (2) MPA members may participate in this process.

### Mid Year Shift Assignments

Generally, officers and sergeants reassigned to Patrol after the annual shift assignments have been published shall be assigned to the available vacancy at the discretion of the Field Operations Deputy Chief.

An officer or sergeant that is scheduled to be reassigned to Patrol within 3 months of January 1<sup>st</sup> (October 1<sup>st</sup> – March 31<sup>st</sup>) may request that their reassignment date be modified to coincide with the reassignment process for that year. Such requests shall be directed to the Field Operations Deputy Chief no later than July 1<sup>st</sup> of the pertinent year. All such requests shall be considered and determined on a case-by-case basis.

### Shift Assignment Appeals

Shift assignments made by the Field Operations Deputy Chief may be appealed in writing to the Chief of Police whose decision will be final.

### Operational Needs

Nothing in this section shall prohibit the Department from changing personnel assignments to meet operational needs or during emergencies (also see MPA MOU, Section 29).

### **Section 29 - Change of Shift Assignment**

An effort will be made to provide a two-week notice to unit employees prior to a transfer from one assignment to another when the Police Department has sufficient prior knowledge that such a transfer will occur. Whenever temporary changes/modifications in a shift assignment are anticipated to facilitate the staffing of or participation in a special event, training session/course, or any other planned occurrence, whenever possible unit employees will be provided 72 hours notice. Nothing in this section shall prohibit the Police Department from changing an assignment to meet unforeseen operational requirements or emergencies.

### **Section 30 - Wellness Programs**

Employees represented by the Association shall have available to them the full range of wellness services offered through the City's contract with the Employee Assistance Program provider.

### **Section 31 - No Smoking Policy**

The use of tobacco products is prohibited while on-duty and/or while in/on City premises.

### **Section 32 - Prepaid Legal Services**

Employees represented by the Association shall have the option of participating in a prepaid legal service (currently Hyatt Legal Plan). Each participating employee shall pay, via payroll deduction, the monthly fee established by the company providing the prepaid legal service.

### **Section 33 - 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 in accordance with a medical examination 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 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 of 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.

### **Section 34 - Physical Fitness**

All officers shall participate in a department physical fitness program to maintain fitness in accordance with department standards. Officers shall be required to take the department's annual physical fitness test unless excused as set forth herein, with such testing commencing on or after July 1, 1996, as determined by the Police Chief.

Officers who pass the initial test shall be excused from taking the test in the subsequent year. Those who do not pass shall take the test annually. The exception for those passing and the frequency of re-testing shall be reviewed by the parties at the end of this MOU.

If test results confirm that an officer has failed to meet minimum standards, the officer shall be required to undertake remedial physical training to meet such goals, and the department shall provide assistance to the officer to meet minimum performance levels. Officers hired after December 1, 1984, whose next annual test results confirm that he/she has again failed to meet minimum standards, may be subject to disciplinary action, up to and including termination. Those hired prior to the above date shall not be subject to discipline; except, however, that nothing herein shall be interpreted to interfere with the City's right to enforce minimum physical fitness standards as a condition of employment.

### **Section 35 - Discipline Procedure**

Letters of Reprimand arising from incidents that occurred prior to August 1, 2002, will be removed from the employee's personnel file after three (3) years if there is no subsequent infraction of a similar nature occurring within the three (3) years. Letters of Reprimand arising from incidents that occurred on or after August 1, 2002, will be removed from the employee's personnel file after six (6) years if there is no subsequent infraction of a similar nature within the six (6) years.

The Association agrees to support changes to the Personnel Rules (Sections 25-14.01, 25-14.05, and 25-14.08c of the Monterey City Code) that are consistent with the above six-year provision and with removing references to delegation of authority to Sergeants to issue written reprimands.

Effective with all Written Reprimands issued after December 13, 2005, the procedures for removing Written Reprimands described above shall no longer apply. The Association agrees to support changes to the Personnel Rules, which will delete the provision in Section 25-14.05 allowing for removal of Written Reprimands after six (6) years, when there was no subsequent infraction of a similar nature.

## Section 36 - Employee and Organizational Rights

- A. The parties recognize employee and organizational rights as indicated in the City's Personnel Rules and Regulations.
- B. 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.
- C. Bulletin Boards. The City will furnish, for the exclusive use of the Association, adequate space on designated department bulletin boards as the exclusive location for postings. The board shall be used for the following subjects:
1. Information on Association elections, reports and notices.
  2. Reports of official business of the Association, including reports of committees or the governing boards thereof.
  3. Scheduled membership benefits, programs and promotions.
  4. Any other written material pertaining to the official business of the Association.
- D. Activities on City's Premises and Access. Organizing activities, membership campaigns, or dues collecting by the Association or their representatives on City premises or at work locations on duty hours shall not be permitted. Membership meetings on City premises or at work locations on duty hours shall be permitted, but only to the extent that adequate staffing levels are maintained on-duty and such will not interfere with departmental operations. Representatives of the Association shall be granted reasonable access to employee work locations to investigate matters relating to employer-employee relations if such investigation cannot be conducted elsewhere, unless such access to given work locations would constitute a safety hazard or would interfere with the operations of the City. Access to work locations may be regulated by the Police Chief so as not to constitute a safety hazard or to interfere with operations of the City.
- E. Use of On-Duty Time. On-duty employees who are acting as representatives of the Association shall first receive permission from a member of the command staff before removing themselves from their duty station or activities. The command staff member may deny an on-duty employee permission to leave their duty station if the absence of the on-duty employee would disrupt the delivery of service.

On-duty employees who wish to meet with their representative shall first receive permission from a member of the command staff before leaving from the duty station or on-duty activities. The command staff member may deny an on-duty employee permission to be removed from their duty station if the absence of the on-duty employee would disrupt the delivery of service.

If the above mentioned time is denied, the on-duty employee shall be allowed reasonably necessary time to meet with his/her representative immediately prior to an interrogation that

can be reasonably expected to result in the said employee being disciplined, provided such does not adversely impact an investigation. This paragraph shall be interpreted in a manner consistent with rights guaranteed under California Government Code Section 3303.

- F. Supplies and Equipment. The use of City supplies and equipment shall be subject to reasonable departmental and City guidelines.
- G. Agency Shop. The Association shall continue to have an Agency Shop provision. The Association agrees to indemnify and hold the City harmless against any liability arising from any claims, demands or other action relating to the City compliance with this section and with compliance with the agency fee obligation.

For purposes of this section, Agency Shop shall be as defined in the California Government Code, Section 3502.5 and the provisions of this section relating to payments and administration of Agency Shop shall apply, with the exception of Section 3502.5(b) (Exhibit A).

### **Section 37 - City Rights**

The parties recognize City rights as indicated in the City's Personnel Rules and Regulations.

### **Section 38 - 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 regulation, 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 39 - 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.

The City and the Association acknowledge that the Monterey Police Association did not voluntarily agree to the imposition of random drug testing or the fixed Friday 4/10 schedule change provisions in City Resolutions #99-08 and 99-106, but the parties acknowledge that employees represented by the Association continue to be subject to those provisions.

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. Emergency shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the City caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war. 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 Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

The parties hereto have executed this Memorandum of Understanding the day, month and year noted below.

**CITY:**

**MPA / LIUNA:**

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

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

\_\_\_\_\_  
Fred Meurer, City Manager

\_\_\_\_\_  
Tim McCormick, LIUNA Representative  
Lead Spokesperson

\_\_\_\_\_  
Ralph Bailey, Personnel Director  
Co-Spokesperson

\_\_\_\_\_  
Ralph Tognetti, Police Sergeant.  
Negotiation Team Member

\_\_\_\_\_  
Mike McCarthy, Prin. Personnel Analyst  
Co-Spokesperson

\_\_\_\_\_  
Todd Kessler, Police Officer  
Negotiation Team Member  
MPA Secretary

\_\_\_\_\_  
Tim Shelby, Deputy Police Chief  
Negotiation Team Member

\_\_\_\_\_  
Albert Duran, Police Officer  
Negotiation Team Member  
MPA Board Member

Mike Aspland, Deputy Police Chief  
Negotiation Team Member

James Arensdorf, Police Officer  
Negotiation Team Member

Approved as to Form:

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

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