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STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

LOMPOC POLICE OFFICERS' ASSOCIATION, Charging Party/ Respondent, v. CITY OF LOMPOC, Respondent / Charging Party.	Case No. LA-CE-555-M; LA-CE-564-M; LA-CE-585-M; LA-CO-100-M **CITY OF LOMPOC'S OBJECTIONS TO LOMPOC POLICE OFFICERS' ASSOCIATION'S "REPLY" BRIEF**

Respondent/Charging Party CITY OF LOMPOC ("City") hereby objects to Charging Party/Respondent LOMPOC POLICE OFFICERS' ASSOCIATION'S ("LPOA") "Reply to the City's Response to the Association's Statement of Exceptions" ("Reply"), which it included in its Response to the City's Statement of Cross-Exceptions. (See p.1:23-26.)

Specifically, the City objects to the Reply because such additional argument is not allowed under the PERB Regulations. Although the Board retains the discretion to accept reply briefs, the Board has only exercised that discretion "when a response to exceptions 'raises new issues, discusses new case law or formulates new defenses to allegations'" and those new arguments would aid the Board in reviewing the underlying dispute. (*City of Modesto* (2008) PERB Decision No. 1994-M, p.9, citing *Los Angeles Unified School District/Los Angeles Community College District* (1984) PERB Decision No. 408.)

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The LPOA's "Reply," however, does not address arguments, case law or defenses raised for the first time in the City's response to LPOA's single exception. Instead, LPOA's Reply includes argumentative "facts" concerning issues not raised in either its Statement of Exceptions, or in the City's Cross-Exceptions, and thus not on appeal. These new arguments to issues not previously raised or appealed cause prejudice the City because the City does not have an opportunity to respond.

For the foregoing reasons and because the LPOA has submitted argument that is not authorized by PERB Regulations, the City respectfully requests that the Board disregard that portion of LPOA's Reply that is non-responsive to the City's cross-exceptions.

Dated: July 17, 2012

Liebert Cassidy Whitmore

By:_____
Adrianna E. Guzman
Attorneys for Respondent
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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 6033 W. Century Boulevard, Suite 500, Los Angeles, California 90045.

On July 17, 2012, I served the foregoing document described as **CITY OF LOMPOC'S OBJECTIONS TO LOMPOC POLICE OFFICERS' ASSOCIATION'S "REPLY" BRIEF** on all interested parties in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed as follows:

BY FAX AND OVERNIGHT MAIL	**BY FAX & U.S. MAIL**
PUBLIC EMPLOYMENT RELATIONS BOARD 1031 18th Street Sacramento, CA 95811-4124 Facsimile: (916) 327-7955	Michael A. McGill Lackie, Dammeier & McGill 367 N. Second Avenue Upland, CA 91768 Facsimile: (909) 985-3299

☒ **BY OVERNIGHT** By overnight courier, I arranged for the above-referenced document(s) to be delivered to an authorized overnight courier service, NORCO OVERNIGHT, for delivery to the addressee(s) above, in an envelope or package designated by the overnight courier service with delivery fees paid or provided for.

☒ **BY FACSIMILE** I arranged for the above-entitled document(s) to be sent by facsimile from facsimile number (310) 337-0837 to the above-listed facsimile number(s) prior to 5:00 p.m. The facsimile machine I used complied with the applicable rules of court. Pursuant to the applicable rules, I caused the machine to print a transmission record of the transmission, to the above facsimile number(s) and no error was reported by the machine. A copy of this transmission is attached hereto.

Executed on July 17, 2012, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Erlinda Bernabe
Type or Print Name

Signature

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