

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CONTRA COSTA COUNTY  
AND  
UNITED CLERICAL, TECHNICAL & SPECIALIZED  
EMPLOYEES AFSCME, LOCAL 2700**

This Memorandum of Understanding (MOU) is entered into pursuant to the authority contained in Division 34 of Board of Supervisors' Resolution 81/1165 and has been jointly prepared by the parties.

The Employee Relations Officer (County Administrator) is the representative of Contra Costa County in employer-employee relations matters as provided in Board of Supervisors' Resolution 81/1165.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in units in which the Union is the recognized representative, have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations covering such employees.

This MOU shall be presented to the Contra Costa County Board of Supervisors, as the governing board of the County and appropriate fire districts, as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing October 1, 1999 and ending September 30, 2005.

Special provisions and restrictions pertaining to Project employees covered by this MOU are contained in Attachment A which is attached hereto and made a part hereof.

**DEFINITIONS**

**Alternative Work Schedules** means one or more of the following:

- 9/80:** Eight (8) nine (9) hour work days plus an eight (8) hour work day with one (1) day off within a two (2) week work period.
- 4/10:** Four (4) ten (10) hour work days within the work week.
- 5/8:** Five (5) eight (8) hour work days within a work week where the work hours are other than the standard 8:00 a.m. to 5:00 p.m. (also known as "flex time").

## **DEFINITIONS**

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Meal breaks for any of the above schedules may be either one-half (1/2) hour or one (1) hour.

**Appointing Authority:** Department Head unless otherwise provided by statute or ordinance.

**Class:** A group of positions sufficiently similar with respect to the duties and responsibilities that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.

**Class Title:** The designation given to a class, to each position allocated to the class, and to the employees allocated to the class.

**County:** Contra Costa County.

**Demotion:** The change of a permanent employee to another position in a class allocated to a salary range for which the top step is lower than the top step of the class which the employee formerly occupied except as provided for under "Transfer" or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classifications.

**Director of Human Resources:** The person designated by the County Administrator to serve as the Assistant County Administrator-Human Resources Director.

**Eligible:** Any person whose name is on an employment or reemployment or layoff list for a given class.

**Employee:** A person who is an incumbent of a position or who is on leave of absence in accordance with provisions of this MOU and whose position is held pending his/her return.

**Employment List:** A list of persons who have been found qualified for employment in a specific class.

**Layoff List:** A list of persons who have occupied positions allocated to a class in the Merit System and who have been involuntarily separated by layoff or displacement, or demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement, or have transferred in lieu of layoff or displacement.

**Permanent-Intermittent Position:** Any position which requires the services of an incumbent for an indefinite period but on an intermittent basis, as needed, paid on an hourly basis.

**Permanent Part-Time Position:** Any position which will require the services of an incumbent for an indefinite period but on a regularly scheduled less than full time basis.

**Permanent Position:** Any position which has required, or which will require, the services of an incumbent without interruption, for an indefinite period.

**Project Employee:** An employee who is engaged in a time limited program or service by reason of limited or restricted funding. Such positions are typically funded from outside sources but may be funded from County revenues.

**Promotion:** The change of a permanent employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied, except as provided for under "Transfer" or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classes.

**Position:** The assigned duties and responsibilities calling for the regular full time, part-time or intermittent employment of a person.

**Reallocation:** The act of reassigning an individual position from one class to another class at the same range of the salary schedule or to a class which is allocated to another range that is within five percent (5%) of the top step, except as otherwise provided for in the Personnel Management Regulations, deep class resolutions or other ordinances.

**Reclassification:** The act of changing the allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the kind, difficulty or responsibility of duties performed in such position.

**Reemployment List:** A list of persons, who have occupied positions allocated to any class in the merit system and, who have voluntarily separated and are qualified for consideration for reappointment under the Personnel Management Regulations governing reemployment.

**Resignation:** The voluntary termination of permanent employment with the County.

**Temporary Employment:** Any employment in the Merit System which will require the services of an incumbent for a limited period of time, paid on an hourly basis, not in an allocated position or in permanent status.

**Transfer:** The change of an employee who has permanent status in a position to another position in the same class in a different department, or to another

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position in a class which is allocated to a range on the salary plan that is within five percent (5%) at top step as the class previously occupied by the employee.

**Union:** AFSCME Local 2700

### **SECTION 1 - UNION RECOGNITION**

The Union is the formally recognized employee organization for the representation units listed below, and such organization has been certified as such pursuant to Board of Supervisors' Resolution 81/1165.

General Clerical Unit

### **SECTION 2 - UNION SECURITY**

**2.1**        **Dues Deduction.** Pursuant to Board of Supervisors' Resolution 81/1165, only a majority representative may have dues deduction and as such the Union has the exclusive privilege of dues deduction or agency fee deduction for all employees in its units.

**2.2**        **Agency Shop.**

- A.            The Union agrees that it has a duty to provide fair and non-discriminatory representation to all employees in all classes in the units for which this section is applicable regardless of whether they are members of the Union.
- B.            All employees employed in a representation unit on or after the effective date of this MOU and continuing until the termination of the MOU, shall as a condition of employment either:
1.            Become and remain a member of the Union or;
  2.            pay to the Union, an agency shop fee in an amount which does not exceed an amount which may be lawfully collected under applicable constitutional, statutory, and case law, which under no circumstances shall exceed the monthly dues, initiation fees and general assessments made during the duration of this MOU. It shall be the sole responsibility of the Union to determine an agency shop fee which meets the above criteria; or

3. do both of the following:
  - a. Execute a written declaration that the employee is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
  - b. pay a sum equal to the agency shop fee described in Section 2.2.B.2 to a non-religious, non-labor, charitable fund chosen by the employee from the following charities: Family and Children's Trust Fund, Child Abuse Prevention Council and Battered Women's Alternative.
- C. The Union shall provide the County with a copy of the Union's Hudson Procedure for the determination and protest of its agency shop fees. The Union shall provide a copy of said Hudson Procedure to every fee payer covered by this MOU within one (1) month from the date it is approved and annually thereafter, and as a condition to any change in the agency shop fee. Failure by an employee to invoke the Union's Hudson Procedure within one (1) month after actual notice of the Hudson Procedure shall be a waiver by the employee of their right to contest the amount of the agency shop fee.
- D. The provisions of Section 2.2.B.2 shall not apply during periods that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term separation includes transfer out of the unit, layoff, and leave of absence with a duration of more than thirty (30) days.
- E. The Union shall provide the Human Resources Director with copies of a financial report patterned after Form LM-2 pursuant to the Labor Management Disclosure Act of 1959. Such report shall be available to employees in the unit. Failure to file such a report not later than June 1st of each calendar year shall result in the termination of all agency shop fee deductions without jeopardy to any employee, until said report is filed.
- F. Compliance.
  1. An employee employed in or hired into a job class represented by the Union shall be provided with an "Employee Authorization for Payroll Deduction" form by the Human Resources Department.

## **SECTION 2 - UNION SECURITY**

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2. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this agency shop fee provision and the union dues, agency shop fee, initiation fee or charitable contribution required under Section 2.2.B.3 are not received, the Union may, in writing, direct that the County withhold the agency shop fee and the initiation fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the agency shop fee and the County shall pay an equal amount to the Union.

G. The Union shall indemnify, defend, and save the County harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this union security section, or action taken or not taken by the County under this Section. This includes, but is not limited to, the County's Attorneys' fees and costs. The provisions of this subsection shall not be subject to the grievance procedure.

H. The Human Resources Department shall monthly furnish a list of all new hires to the Union.

I. In the event that employees in a bargaining unit represented by the Union vote to rescind Agency Shop, the provisions of Section 2.3 and 2.4 shall apply to dues-paying members of the Union.

**2.3 Maintenance of Membership.** All employees in units represented by the Union who are currently paying dues to the Union and all employees in such units who hereafter become members of the Union shall as a condition of continued employment pay dues to the Union for the duration of this MOU and each year thereafter so long as the Union continues to represent the position to which the employee is assigned, unless the employee has exercised the option to cease paying dues in accordance with Section 2.5.

**2.4 Union Dues Form.** Employees hired into classifications represented by the Union shall, as a condition of employment, complete a Union dues authorization card provided by the Union and shall have deducted from their paychecks the membership dues of the Union. Said employees shall have thirty (30) days from the date of hire to decide if he/she does not want to become a member of the Union. Such decision not to become a member of the Union must be made in writing to the Auditor-Controller with a copy to the Labor Relations Division within said thirty (30) day period. If the employee decides not to become a member of the Union, any Union dues previously deducted from the employee's paycheck shall be returned to the employee and said amount shall be deducted from the next dues deduction check sent to the Union. If the employee does not

notify the County in writing of the decision not to become a member within the thirty (30) day period, he/she shall be deemed to have voluntarily agreed to pay the dues of the Union.

Each such dues authorization form referenced above shall include a statement that the Union and the County have entered into a MOU, that the employee is required to authorize payroll deductions of Union dues as a condition of employment, and that such authorization may be revoked within the first thirty (30) days of employment upon proper written notice by the employee within said thirty (30) day period as set forth above. Each such employee shall, upon completion of the authorization form, receive a copy of said authorization form which shall be deemed proper notice of his/her right to revoke said authorization.

**2.5 Withdrawal of Membership.** By notifying the Auditor-Controller's Department in writing, between August 1, 2005 and August 31, 2005, any employee may withdraw from Union membership and discontinue paying dues as of the payroll period, commencing September 1, 2005, discontinuance of dues payments to then be reflected in the October 10, 2005 paycheck. Immediately upon close of the above mentioned thirty (30) day period the Auditor-Controller shall submit to the Union a list of the employees who have rescinded their authorization for dues deduction.

**2.6 Communicating With Employees.** The Union shall be allowed to use designated portions of bulletin boards or display areas in public portions of County buildings or in public portions of offices in which there are employees represented by the Union, provided the communications displayed have to do with matters within the scope of representation and further provided that the employee organization appropriately posts and removes the information. The Department Head reserves the right to remove objectionable materials after consultation with the Union.

Representatives of the Union, not on County time, shall be permitted to place a supply of employee literature at specific locations in County buildings if arranged through the Department Head or designated representative; said representatives may distribute employee organization literature in work areas (except work areas not open to the public) if the nature of the literature and the proposed method of distribution are compatible with the work environment and work in progress. Such placement and/or distribution shall not be performed by on-duty employees.

The Union shall be allowed access to work locations in which it represents employees for the following purposes:

- a. to post literature on bulletin boards;
- b. to arrange for use of a meeting room;

## **SECTION 2 - UNION SECURITY**

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- c. to leave and/or distribute a supply of literature as indicated above;
- d. to represent an employee on a grievance, and/or to contact a union officer on a matter within the scope of representation.

In the application of this provision, it is agreed and understood that in each such instance advance arrangements, including disclosure of which of the above purposes is the reason for the visit, will be made with the departmental representative in charge of the work area, and the visit will not interfere with County services.

**2.7 Use of County Buildings.** The Union shall be allowed the use of areas normally used for meeting purposes for meetings of County employees during non-work hours when:

- a. such space is available and its use by the Union is scheduled twenty-four (24) hours in advance;
- b. there is no additional cost to the County;
- c. it does not interfere with normal County operations;
- d. employees in attendance are not on duty and are not scheduled for duty; and
- e. the meetings are on matters within the scope of representation.

The administrative official responsible for the space shall establish and maintain scheduling of such uses. The Union shall maintain proper order at the meeting, and see that the space is left in a clean and orderly condition.

The use of County equipment (other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards) is strictly prohibited, even though it may be present in the meeting area.

**2.8 Advance Notice.** The Union shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board, or boards and commissions appointed by the Board, and to meet with the body considering the matter.

The listing of an item on a public agenda, or the mailing of a copy of a proposal at least seventy-two (72) hours before the item will be heard, or the delivery of a



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copy of the proposal at least twenty-four (24) hours before the item will be heard, shall constitute notice.

In cases of emergency when the Board, or boards and commissions appointed by the Board, determines it must act immediately without such notice or meeting, it shall give notice and opportunity to meet as soon as practical after its action.

**2.9** **Written Statement for New Employees.** The County will provide a written statement to each new employee hired into a classification in any of the bargaining units represented by the Union, that the employee's classification is represented by the Union and the name of a representative of the Union. The County will provide the employee with a packet of information which has been supplied by the Union and approved by the County.

**2.10** **Section 22 of 1977-79 MOU.** Section 22 of the 1977-79 Memorandum of Understanding between the County and United Clerical Employees shall continue for the duration of this MOU.

**2.11** **P.E.O.P.L.E.** Employees in classifications represented by United Clerical, Technical & Specialized Employees, Local 2700, AFSCME may make a voluntary, monetary monthly contribution to P.E.O.P.L.E., said contributions to be deducted from employees' pay by the County and remitted to AFSCME, P.E.O.P.L.E. (Public Employees Organized to Promote Legislative Equality).

## **SECTION 3 - NO DISCRIMINATION**

There shall be no discrimination because of sex, race, creed, color, national origin, sexual orientation or union activities against any employee or applicant for employment by the County or by anyone employed by the County; and to the extent prohibited by applicable State and Federal law there shall be no discrimination because of age. There shall be no discrimination against any disabled person solely because of such disability unless that disability prevents the person from meeting the minimum standards established for the position or from carrying out the duties of the position safely. There shall be no discrimination because of Union membership or legitimate Union activity against any employee or applicant for employment by the County or anyone employed by the County.

## **SECTION 4 - SHOP STEWARDS/OFFICIAL REPRESENTATIVES**

**4.1** **Attendance at Meetings.** Employees designated as shop stewards or official representatives of the Union shall be allowed to attend meetings held by County agencies during regular working hours on County time as follows:

## **SECTION 4 - SHOP STEWARDS/OFFICIAL REPRESENTATIVES**

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- a. if their attendance is required by the County at a specific meeting.
- b. if their attendance is sought by a hearing body or presentation of testimony or other reasons;
- c. if their attendance is required for a meeting necessary for settlement of grievances filed pursuant to Section 26 - Grievance Procedure of this MOU and scheduled at reasonable times agreeable to all parties;
- d. if they are designated as a shop steward, in which case they may utilize a reasonable time at each level of the proceedings to assist an employee to present a grievance provided the meetings are scheduled at reasonable times agreeable to all parties;
- e. if they are designated as spokesperson or representative of the Union and as such make representations or presentations at meetings or hearings on wages, salaries and working conditions provided in each case advance arrangements for time away from the employee's work station or assignment are made with the appropriate Department Head, and the County agency calling the meeting is responsible for determining that the attendance of the particular employee(s) is required;
- f. to attend examination appeal board hearings to assist an employee in making a presentation.

**4.2 Union Representatives.** Official representatives of the Union shall be allowed time off on County time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the Labor Relations Manager or other management representatives on matters within the scope of representation, provided that advance arrangements for the time away from the work station or assignment are made with the appropriate Department Head.

Shop stewards and union officials shall advise, as far in advance as possible, their immediate supervisor, or his/her designee, of their intent to engage in Union business. All requests for release time shall include the location, the estimated time needed and the general nature of the Union business involved (e.g., grievance meeting, Skelly hearing).

**4.3 Release Time For Training.** The County shall provide the Union a maximum of 320 total hours per year of release time for union designated stewards or officers to attend union-sponsored training programs. Requests for

release time shall be provided in writing to the Department and County Human Resources at least fifteen (15) days in advance of the time requested. Department Heads will reasonably consider each request and notify the affected employee whether such request is approved, within one (1) week of receipt.

**SECTION 5 - SALARIES**

**5.1 General Wage Increases.**

A. The following wage schedule is effective for employees represented by AFSCME, Local 2700:

October 1, 1999: 5.0% increase  
October 1, 2000: 3.0% increase  
October 1, 2001: 4.0% increase  
October 1, 2002: 5.0% increase  
October 1, 2003: 3.0% increase  
October 1, 2004: 3.0% increase

A five percent (5%) Lump Sum Pay will be calculated for all eligible earnings. This includes employee regular pay, overtime pay and specific other earnings computed as a percentage of base pay from October 1, 1999 through November 30, 1999.

The October 1, 1999 increase will be paid retroactively in a lump sum payment to each employee for the period October 1, 1999 through November 30, 1999, without interest.

The payment amount thus computed will be paid on the January 10, 2000 pay warrant as a "Lump Sum Payment" and will be subject to normal tax withholding and retirement deduction requirements.

B. Effective October 1, 1999, the salary of Medical Transcriber (JWD9) shall receive an increase in base pay of 5.4%.

Effective October 1, 2000, the fifth step of the salary range for Experienced Level Clerk and Experienced Level Account Clerk classifications shall be increased by one percent (1%). Effective October 1, 2001, the fifth step of the salary range for Experienced Level Clerk and Experienced Level Account Clerk classifications shall be increased by one percent (1%).

**5.2 New Pay Equity Master Agreement.** The County and the below listed Employee Organizations which participated in the Pay Equity Study jointly

## **SECTION 5 - SALARIES**

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agree to provisions in this new Pay Equity Master Agreement executed in May 1995.

In executing this agreement, both the County and the participating Employee Organizations (CCCEA Local One, AFSCME Locals 2700 and 512, SEIU 535, California Nurses Association, Western Council of Engineers and the Appraisers' Association) state their intent that (1) the provisions of the Pay Equity Master Agreement contained herein shall stand separate from other terms and conditions of employment which may be negotiated and adopted in the MOU between the County and the individual participating Employee Organizations, and that (2) provisions of the Pay Equity Master Agreement will remain in place as the basis under which all represented pay equity classes will be granted adjustments until all remaining classes reach the trend line or until such time as the parties mutually agree to modify or terminate this agreement.

This agreement shall be presented to the Contra Costa County Board of Supervisors as the joint recommendation of the undersigned.

1. Scope of Agreement. The County and the participating Employee Organizations agree that provisions contained herein will fully supersede and replace the February 1993 Supplemental MOU on Pay Equity.
2. Adoption of Fixed Payout Formula. The County and the participating Employee Organizations agree to adopt a pay equity fixed payout formula described below in 3. Which will remain in effect until all pay equity classes are adjusted to the trend line, or until such time as the parties mutually agree to modify or terminate this agreement.
3. Operation of Formula. The equity fixed payout formula shall be computed as follows: The annual value of the general salary increase for all classifications represented only by the participating Employee Organizations (CCCEA Local One, AFSCME Locals 2700 and 512, SEIU Local 535, California Nurses Association, Western Council of Engineers and the Appraisers' Association) and Management and Unrepresented employees, shall be totaled and multiplied by a factor of twenty percent (20%).

The fixed amount of money derived from this calculation shall constitute the total pay equity increase for all classes below the trend line represented by the participating Employee Organizations and for all Management and Unrepresented classes below the trend line.

The manner in which the pay equity increase will be distributed to all represented classes below the trend line shall be determined by the

participating Employee Organizations who shall consider only (1) whether classes farthest from the trend line shall receive a greater percentage adjustment than classes closer to the trend line, and (2) at what percentage distance below the trend line to apply any differing percentage adjustment.

If upon review, the County finds that the manner in which the Employee Organizations have structured the distribution is unacceptable, the County and the Employee Organizations shall meet and confer.

4. Effective Dates. The County agrees that any pay equity increases will be effective ninety (90) days from the effective date of any general salary increases.
  
5. Indemnification. Each participating union will promise not to bring or support comparable worth or pay equity litigation against Contra Costa County or any agent, servant, officer, or employee of Contra Costa County and further promise that in the event litigation advancing comparable worth or pay equity claims is brought against the County or any of its agents, servants, officers, or employees, within five (5) years from the effective date of this agreement by any person(s) employed or formerly employed in a class(es) represented by the participating unions, the union(s) representing such class(es) shall each pay up to five thousand dollars (\$5000) of the County's attorney fees and costs; provided that the union is not named as a co-defendant in such litigation.

**5.3** Entrance Salary. New employees shall generally be appointed at the minimum step of the salary range established for the particular class of position to which the appointment is made. However, the appointing authority may fill a particular position at a step above the minimum of the range.

**5.4** Certification Rule.

- A. Open Employment List. On each request for personnel from an open employment list, ten (10) names shall be certified. If more than one position is to be filled in any class in a department at the same time from the same request for personnel, the number of names to be certified from an open employment list shall be equal to the number of positions to be filled plus nine (9).

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- B. Promotional Employment List. On each request for personnel from a promotional employment list, five (5) names shall be certified. If more than one position is to be filled in any class in a department at the same time from the same request for personnel, the number of names to be certified from a promotional employment list shall be equal to the number of positions to be filled plus four (4).

**5.5** Anniversary Dates. Except as may otherwise be provided for in deep class resolutions, anniversary dates will be set as follows:

- A. New Employees. The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) months service provided however, if an employee began work on the first regularly scheduled workday of the month the anniversary date is the first day of the calendar month when the employee successfully completes six (6) months service.
- B. Promotions. The anniversary date of a promoted employee is determined as for a new employee in Subsection 5.5.A above.
- C. Demotions. The anniversary of a demoted employee is the first day of the calendar month after the calendar month when the demotion was effective.
- D. Transfer, Reallocation and Reclassification. The anniversary date of an employee who is transferred to another position or one whose position has been reallocated or reclassified to a class allocated to the same salary range or to a salary range which is within five percent (5%) of the top step of the previous classification, remains unchanged.
- E. Reemployments. The anniversary of an employee appointed from a reemployment list to the first step of the applicable salary range and not required to serve a probation period is determined in the same way as the anniversary date is determined for a new employee who is appointed the same date, classification and step and who then successfully completes the required probationary period.
- F. Outside Appointments. Notwithstanding other provisions of this Section 5, the anniversary of an employee who is appointed to a classified position from outside the County's merit system at a rate above the minimum salary for the employee's new class, or who is transferred from another governmental entity to this County's merit system, is one (1) year from the first day of the calendar month after

the calendar month when the employee was appointed or transferred; provided however, when the appointment or transfer is effective on the employee's first regularly scheduled work day of that month, his/her anniversary is one (1) year after the first calendar day of that month.

**5.6 Increments Within Range.** The performance of each employee, except those of employees already at the maximum salary step of the appropriate salary range, shall be reviewed on the anniversary date as set forth in Section 5.5 to determine whether the salary of the employee shall be advanced to the next higher step in the salary range. Advancement shall be granted on the affirmative recommendation of the appointing authority, based on satisfactory performance by the employee. The appointing authority may recommend denial of the increment or denial subject to one additional review at some specified date before the next anniversary, such date to be set at the time the original report is returned. This decision may be appealed through the Grievance Procedure.

Except as herein provided, increments within range shall not be granted more frequently than once a year, nor shall more than one (1) step within-range increment be granted at one time, except as otherwise provided in deep class resolutions. In case an appointing authority recommends denial of the within range increment on some particular anniversary date, but recommends a special salary review at some date before the next anniversary the special salary review shall not affect the regular salary review on the next anniversary date. Nothing herein shall be construed to make the granting of increments mandatory on the County. If an operating department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.

**5.7 Part-Time Compensation.** A part-time employee shall be paid a monthly salary in the same ratio to the full time monthly rate to which the employee would be entitled as a full time employee under the provisions of this Section 5 as the number of hours per week in the employee's part-time work schedule bears to the number of hours in the full time work schedule of the department.

**5.8 Compensation for Portion of Month and Permanent-Intermittent Compensation.** Any employee who works less than any full calendar month, except when on earned vacation or authorized sick leave, shall receive as compensation for services an amount which is in the same ratio to the established monthly rate as the number of days worked is to the actual working days in such employee's normal work schedule for the particular month; but if the employment is intermittent, compensation shall be on an hourly basis, which is

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calculated on the number of hours in the month worked plus five percent (5%) above the salary step earned.

**5.9 Position Reclassification.** An employee who is an incumbent of a position which is reclassified to a class which is allocated to the same range of the basic salary schedule as is the class of the position before it was reclassified, shall be paid at the same step of the range as the employee received under the previous classification.

An incumbent of a position which is reclassified to a class which is allocated to a lower range of the basic salary schedule shall continue to receive the same salary as before the reclassification, but if such salary is greater than the maximum of the range of the class to which the position has been reclassified, the salary of the incumbent shall be reduced to the maximum salary for the new classification. The salary of an incumbent of a position which is reclassified to a class which is allocated to a range of the basic salary schedule greater than the range of the class of the position before it was reclassified shall be governed by the provisions of Section 5.11 - Salary on Promotion.

### **5.10 Salary Reallocation & Salary on Reallocation.**

- A. In a general salary increase or decrease, an employee in a class which is reallocated to a salary range above or below that to which it was previously allocated, when the number of steps remain the same, shall be compensated at the same step in the new salary range the employee was receiving in the range to which the class was previously allocated. If the reallocation is from one salary range with more steps to a range with fewer steps or vice versa, the employee shall be compensated at the step on the new range which is in the same percentage ratio to the top step of the new range as was the salary received before reallocation to the top step of the old range, but in no case shall any employee be compensated at less than the first step of the range to which the class is allocated.
- D. In the event that a classification is reallocated from a salary range with more steps to a salary range with fewer steps on the salary schedule, apart from the general salary increase or decrease described in Section 5.10.A above, each incumbent of a position in the reallocated class shall be placed upon the step of the new range which equals the rate of pay received before the reallocation. In the event that the steps in the new range do not contain the same rates



as the old range, each incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range, or if the new range does not contain a higher step, at the step which is next lower than the salary received in the old range.

- C. In the event an employee is in a position which is reallocated to a different class which is allocated to a salary range the same as, or above or below the salary range of the employee's previous class, the incumbent shall be placed at the step in the new class which equals the rate of pay received before reallocation. In the event that the steps in the range for the new class do not contain the same rates as the range for the old class, the incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the incumbent shall be placed at the step which is next lower than the salary received in the old range.
- D. In the event of reallocation to a deep class, the provisions of the deep class resolution and incumbent salary allocations, if any, shall supersede Section 5.10.

**5.11 Salary on Promotion.** Any employee who is appointed to a position of a class allocated to a higher salary range than the class previously occupied, except as provided under Section 5.14, shall receive the salary in the new salary range which is next higher than the rate received before promotion. In the event this increase is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is at least five percent (5%) greater than the next higher step; provided, however, that the next step shall not exceed the maximum salary for the higher class. In the event of the appointment of a laid off employee from the layoff list to the class from which the employee was laid off, the employee shall be appointed at the step which the employee had formerly attained in the higher class unless such step results in a decrease in which case the employee is appointed to the next higher step. If however, the employee is being appointed into a class allocated to a higher salary range than the class from which the employee was laid off, the salary will be calculated from the highest step the employee achieved prior to layoff, or from the employee's current step, whichever is higher.

**5.12 Salary on Involuntary Demotion.** Any employee who is demoted, except as provided under Section 5.13, shall have his/her salary reduced to the monthly salary step in the range for the class of position to which he/she has been demoted next lower than the salary received before demotion. In the event this decrease is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is five percent (5%) less than the

## **SECTION 5 - SALARIES**

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next lower step; provided, however, that the next step shall not be less than the minimum salary for the lower class.

Whenever the demotion is the result of layoff, cancellation of positions or displacement by another employee with greater seniority rights, the salary of the demoted employee shall be that step on the salary range which he/she would have achieved had he/she been continuously in the position to which he/she has been demoted, all within-range increments having been granted.

**5.13 Salary on Voluntary Demotion.** Whenever any employee voluntarily demotes to a position in a class having a salary range lower than that of the class from which he or she demotes, his or her salary shall remain the same if the steps in his or her new (demoted) salary range permit, and if not, the new salary shall be set at the step next below former salary.

**5.14 Transfer.** An employee who is transferred from one position to another as described under "Transfer" shall be placed at the step in the salary range of the new class which equals the rate of pay received before the transfer. In the event that the steps in the range for the new class do not contain the same rates as the range for the old class, the employee shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the employee shall be placed at the step which is next lower than the salary received in the old range.

Whenever a permanent employee transfers to or from a deep class, as provided in the appropriate deep class resolutions, the salary of the employee shall be set as provided in the deep class resolutions at a step not to exceed a five percent (5%) increase in the employee's base salary.

However, if the deep class transfer occurs to or from a deep class with specified levels identified for certain positions and their incumbents, the employee's salary in the new class shall be set in accordance with the section on "salary on promotion" if the employee is transferring to another class or to a level in a deep class for which the salary is at least five percent (5%) above the top base step of the deep class level or class in which they have status currently.

**5.15 Pay for Work in Higher Classification.** When an employee in a permanent position in the Merit System is required to work in a classification for which the compensation is greater than that to which the employee is regularly assigned, the employee shall receive compensation for such work at the rate of pay established for the higher classification pursuant to Subsection 5.11 Salary on Promotion of this Memorandum, commencing on the 41<sup>st</sup> consecutive hour in the assignment, under the following conditions:

- a. The employee is assigned to a program, service, or activity established by the Board of Supervisors which is reflected in an authorized position which has been classified and assigned to the Salary Schedule.
- b. The nature of the departmental assignment is such that the employee in the lower classification becomes fully responsible for the duties of the position of the higher classification.
- c. Employee selected for the assignment will normally be expected to meet the minimum qualifications for the higher classification.
- d. Pay for work in a higher classification shall not be utilized as a substitute for regular promotional procedures provided in this MOU.
- e. Higher pay assignments shall not exceed six (6) months except through reauthorization.
- f. If approval is granted for pay for work in a higher classification and the assignment is terminated and later reapproved for the same employee within thirty (30) days, no additional waiting period will be required.
- g. Any incentives (e.g., the education incentive) and special differentials (e.g., bilingual differential and hazardous duty differential) accruing to the employee in his/her permanent position shall continue.
- h. During the period of work for higher pay in a higher classification, an employee will retain his/her permanent classification, and anniversary and salary review dates will be determined by time in that classification; except that if the period of work for higher pay in a higher classification exceeds one year continuous employment, the employee, upon satisfactory performance in the higher classification, shall be eligible for a salary review in that class on his/her next anniversary date. Notwithstanding any other salary regulations, the salary step placement of employees appointed to the higher class immediately following termination of the assignment, shall remain unchanged.
- i. Allowable overtime pay, shift differential and/or work location differentials will be paid on the basis of the rate of pay for the higher class.

**5.16**      **Payment.** On the tenth (10th) day of each month, the Auditor will draw a warrant upon the Treasurer in favor of each employee for the amount of

## **SECTION 5 - SALARIES**

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salary due the employee for the preceding month; provided, however, that each employee (except those paid on an hourly rate) may choose to receive an advance on the employee's monthly salary, in which case the Auditor shall, on the twenty-fifth (25th) day of each month, draw his/her warrant upon the Treasurer in favor of such employee.

The advance shall be in an amount equal to one-third (1/3) or less, at the employee's option, of the employee's basic salary of the previous month except that it shall not exceed the amount of the previous month's basic salary less all requested or required deductions.

An election to receive or discontinue an advance shall not be made more than twice in any calendar year or during the first month of employment by filing forms prepared by the Auditor-Controller.

Each election shall become effective on the first day of the month following the deadline for filing the notice and shall remain effective until revoked.

In the case of an election made pursuant to this Section, all required or requested deductions from salary shall be taken from the second installment, which is payable on the tenth (10th) day of the following month.

**5.17      Pay Warrant Errors.** If an employee receives a pay warrant which has an error in the amount of compensation to be received and if this error occurred as a result of a mistake by the Auditor-Controller's Department, it is the policy of the Auditor-Controller's Department that the error will be corrected and a new warrant issued within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays from the time the Department is made aware of and verifies that the pay warrant is in error.

Pay errors found in employee pay shall be corrected as soon as possible as to current pay rate but that no recovery of either overpayments or underpayments to an employee shall be made retroactively except for the two (2) year period immediately preceding discovery of the pay error. This provision shall apply regardless of whether the error was made by the employee, the appointing authority or designee, the Human Resources Director or designee, or the Auditor-Controller or designee.

Recovery of fraudulently accrued over or underpayments are excluded from this section for both parties.

When the County notifies an employee of an overpayment and proposed repayment schedule and the employee wishes to meet with the County, a meeting will be held at which time a repayment schedule shall be determined. If requested by the employee, a Union representative may be present at a meeting

## **SECTION 6 - DAYS AND HOURS OF WORK**

with management to discuss a repayment schedule in the case of overpayments to the employee.

### **SECTION 6 - DAYS AND HOURS OF WORK**

The normal work week of County employees is forty (40) hours between 12:01 a.m. Monday to 12:00 midnight Sunday, usually five (5) eight (8) hour days. However, where operational requirements of a department require deviations from the usual pattern of five (5) eight (8) hour days per work week, an employee's work hours may be scheduled to meet these requirements. The Department Head shall prepare written schedules in advance to support all deviations and encompassing the complete operational cycle contemplated.

The work week for employees in the "4-10" shift is four (4) ten (10) hour working days during a work week consisting of any seven (7) day period. If the County wants to eliminate any existing "4-10" shift and substitute a "5-8" shift or to institute a "4-10" shift which does not allow for three (3) consecutive days off (excluding overtime days or a change of shift assignment), it will meet and confer with the Union prior to implementing said new shift.

### **SECTION 7 - OVERTIME AND COMPENSATORY TIME**

**7.1**            **Overtime.** Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day. Overtime for "4-10" shift employees is any work performed beyond ten (10) hours per day or forty (40) hours per week. All overtime shall be compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and other special differentials).

Overtime for permanent employees is earned and credited in a minimum of one-half hour increments and is compensated by either pay or compensatory time off.

Employees entitled to overtime credit for holidays in positions which work around the clock (such as the County hospital, the Sheriff's office and jails, and the juvenile hall and boys' ranch) shall be provided a choice as to whether they shall be paid at the overtime rate or shall receive compensatory time off at the rate of one and one-half hours compensatory time off for each hour worked. Such compensatory time off, and the accumulation thereof shall be in addition to the total vacation accumulation permitted under the terms of this MOU. The specific provisions of this accumulation are set forth in Section 12.6 of this MOU. Regular overtime for twenty-four (24) hour institutional employees may be accrued as compensatory time in accordance with Section 7.2 of this MOU.

**7.2**            **Compensatory Time.** The following provisions shall apply:

## **SECTION 7 - OVERTIME AND COMPENSATORY TIME**

- a. Employees may periodically elect to accrue compensatory time off in lieu of overtime pay. Eligible employees must notify their Department Head or his or her designee of their intention to accrue compensatory time off or to receive overtime pay at least thirty (30) days in advance of the change.
- b. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.
- c. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- d. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty (80) hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.
- e. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in d. above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.
- f. Employees may not use more than one hundred twenty (120) hours of compensatory time off in any fiscal year period (July 1 - June 30).
- g. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or his/her designee and the employee. Compensatory time off shall not be taken when the employee would be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section. This provision may be waived at the discretion of the Department Head or his or her designee.
- h. When an employee promotes, demotes or transfers from one classification eligible for compensatory time off to another

## **SECTION 8 - CALL BACK TIME**

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classification eligible for compensatory time off within the same department, the employee's accrued compensatory time off balance will be carried forward with the employee.

- i. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth below.
- j. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, accrued compensatory time balances will be paid off at the straight time rate (two-thirds (2/3) the overtime rate) for the employee's current salary whenever:
  - 1. the employee changes status and is no longer eligible for compensatory time off;
  - 2. the employee promotes, demotes or transfers to another department;
  - 3. the employee separates from County service;
  - 4. the employee retires.
- k. The Office of the County Auditor-Controller will establish timekeeping procedures to administer this Section.

**7.3 Fair Labor Standards Act Provisions.** The Fair Labor Standards Act, as amended, may govern certain terms and conditions of the employment of employees covered by this MOU. It is anticipated that compliance with the Act may require changes in some of the County policies and practices currently in effect or agreed upon. If it is determined by the County that certain working conditions, including but not limited to work schedules, hours of work, method of computing overtime, overtime pay, and compensatory time off entitlements or use, must be changed to conform with the Fair Labor Standards Act, such terms and conditions of employment shall not be controlled by this MOU but shall be subject to modification by the County to conform to the Federal Law without further meeting and conferring. The County shall notify the Union (employee organizations) and will meet and confer with said organization regarding the implementation of such modifications.

## **SECTION 8 - CALL BACK TIME**

## **SECTION 9 - ON-CALL DUTY**

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Any employee who is called back to duty shall be paid at the appropriate rate for the actual time worked plus one (1) hour. Such employee called back shall be paid a minimum of two (2) hours at the appropriate rate for each call back.

## **SECTION 9 - ON-CALL DUTY**

On call duty is any time other than time when the employee is actually on duty during which an employee is not required to be on County premises but stand ready to immediately report for duty and must arrange so that his/her superior can reach him/her on ten (10) minutes notice or less. An employee assigned to on-call time shall be paid one (1) hour of straight time credit for each four (4) hours on such on-call time unless otherwise provided in the supplemental sections of this Agreement. Where on-call arrangements exist, the Department Head shall designate which employees are on-call unless otherwise provided in the supplemental sections of this Agreement.

## **SECTION 10 - SHIFT DIFFERENTIAL**

In the hours which qualify for shift differential, employees shall receive five percent (5%) above their base salary rate.

To qualify for shift differential, an employee must have a regularly assigned daily work schedule which requires:

- a. Completion of more than one and one-half (1-1/2) hours over the normal actual working time; or
- b. at least four (4) hours of actual working time from 5:00 p.m. through 9:00 a.m. inclusive. However, employees who have been regularly working a shift qualifying for shift differential immediately preceding the commencement of a vacation, paid sick leave period, paid disability or other paid leave, will have shift differential included in computing the pay for their leave. The paid leave of an employee who is on a rotating shift schedule shall include the shift differential that would have been received had the employee worked the shift for which the employee was scheduled during such period. Shift differential shall only be paid during paid sick leave and paid disability as provided above for the first thirty (30) calendar days of each absence.

## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**



## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

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**11.1 Workforce Reduction.** In the event that funding reductions or shortfalls in funding occur in a department or are expected, which may result in layoffs, the department will notify the union and take the following actions:

- a. Identify the classification(s) in which position reductions may be required due to funding reductions or shortfalls.
- b. Advise employees in those classifications that position reductions may occur in their classifications.
- c. Accept voluntary leaves of absence from employees in those classifications which do not appear to be potentially impacted by possible position reductions when such leaves can be accommodated by the department.
- d. Consider employee requests to reduce their position hours from full time to part time to alleviate the impact of the potential layoffs.
- e. Approve requests for reduction in hours, lateral transfers, and voluntary demotions to vacant, funded positions in classes not scheduled for layoffs within the department, as well as to other departments not experiencing funding reductions or shortfalls when it is a viable operational alternative for the department(s).
- f. Review various alternatives which will help mitigate the impact of the layoff by working through the Tactical Employment Team program (TET) to:
  1. Maintain an employee skills inventory bank to be used as a basis for referrals to other employment opportunities.
  2. Determine if there are other positions to which employees may be transferred.
  3. Refer interested persons to vacancies which occur in other job classes for which they qualify and can use their layoff eligibility.
  4. Establish workshops to aid laid off employees in areas such as resume preparation, alternate career counseling, job search strategy, and interviewing skills.
- g. When it appears to the Department Head and/or Labor Relations Manager that the Board of Supervisors may take action which will

## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

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result in the layoff of employees in a representation unit, the Labor Relations Manager shall notify the Union of the possibility of such layoffs and shall meet and confer with it regarding the implementation of the action.

### **11.2 Separation Through Layoff**

- A. Grounds for Layoff. Any employee(s) having permanent status in position(s) in the merit service may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Supervisors deems sufficient for abolishing the position(s).
- B. Order of Layoff. The order of layoff in a department shall be based on inverse seniority in the class of positions, the employee in that department with least seniority being laid off first and so on.
- C. Layoff By Displacement.
1. In the Same Class. A laid off permanent full time employee may displace an employee in the department having less seniority in the same class who occupies a permanent-intermittent or permanent part-time position, the least senior employee being displaced first.
  2. In the Same Level or Lower Class. A laid off or displaced employee who had achieved permanent status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace within the department and in the class of an employee having less seniority; the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.
- D. Particular Rules on Displacing.
1. Permanent-intermittent and permanent part-time employees may displace only employees holding permanent positions of the same type respectively.
  2. A permanent full time employee may displace any intermittent or part-time employee with less seniority 1) in the same class or, 2) in a class of the same or lower salary level if no full time

## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

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employee in a class at the same or lower salary level has less seniority than the displacing employees.

3. Former permanent full time employees who have voluntarily become permanent part-time employees for the purpose of reducing the impact of a proposed layoff with the written approval of the Human Resources Director or designee retain their permanent full time employee seniority rights for layoff purposes only and may in a later layoff displace a full time employee with less seniority as provided in these rules.

E. Seniority. An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff. Employees reallocated or transferred without examination from one class to another class having a salary within five percent (5%) of the former class, shall carry the seniority accrued in the former class into the new class.

Employees reallocated to a new deep class upon its initiation or otherwise reallocated to a deep class because the duties of the position occupied are appropriately described in the deep class shall carry into the deep class the seniority accrued or carried forward in the former class and seniority accrued in other classes which have been included in the deep class. Service for layoff and displacement purposes includes only the employee's last continuous permanent County employment. Periods of separation may not be bridged to extend such service unless the separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the period of layoff eligibility.

Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous permanent County employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the department in permanent employment. Any remaining ties shall be broken by random selection among the employees involved.

F. Eligibility for Layoff List. Whenever any person who has permanent status is laid off, has been displaced, has been demoted by displacement or has voluntarily demoted in lieu of layoff or

## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

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displacement, or has transferred in lieu of layoff or displacement, the person's name shall be placed on the layoff list for the class of positions from which that person has been removed.

- G. Order of Names on Layoff. First, layoff lists shall contain the names of persons laid off, displaced, or demoted as a result of a layoff or displacement, or who have voluntarily demoted or transferred in lieu of layoff or displacement. Names shall be listed in order of layoff seniority in the class from which laid off, displaced or demoted or transferred on the date of layoff, the most senior person listed first. In case of ties in seniority, the seniority rules shall apply except that where there is a class seniority tie between persons laid off from different departments, the tie(s) shall be broken by length of last continuous permanent County employment with remaining ties broken by random selection among the employees involved.
- H. Duration of Layoff & Reemployment Rights. The name of any person granted reemployment privileges shall continue on the layoff list for a period of two (2) years. Persons placed on layoff lists shall continue on the appropriate list for a period of four (4) years.
- I. Certification of Persons From Layoff Lists. Layoff lists contain the name(s) of person(s) laid off, displaced or demoted by displacement or voluntarily demoted in lieu of layoff or displacement, or transferred in lieu of layoff or displacement. When a request for personnel is received from the appointing authority of a department from which an eligible(s) was laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list from the department. When a request for personnel is received from a department from which an eligible(s) was not laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list who shall be subject to a probationary period. A person employed from a layoff list shall be appointed at the same step of that salary range the employee held on the day of layoff.
- J. Removal of Names From Reemployment & Layoff Lists. The Human Resources Director may remove the name of any eligible from a reemployment or layoff list for any reason listed below:
1. For any cause stipulated in Section 404.1 of the Personnel Management Regulations.
  2. On evidence that the eligible cannot be located by postal authorities.

## **SECTION 11 - SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

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3. On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.
4. If three (3) offers of permanent appointment to the class for which the eligible list was established have been declined by the eligible.
5. If the eligible fails to respond to the Human Resources Director or the appointing authority within ten (10) days to written notice of certification mailed to the person's last known address.

If the person on the reemployment or layoff list is appointed to another position in the same or lower classification, the name of the person shall be removed. However, if the first permanent appointment of a person on a layoff list is to a lower class which has a top step salary lower than the top step of the class from which the person was laid off, the name of the person shall not be removed from the layoff list. Any subsequent appointment of such person from the layoff list shall result in removal of that person's name.

- K. Removal of Names from Reemployment & Layoff Certifications. The Human Resources Director may remove the name of any eligible from a reemployment or layoff certification if the eligible fails to respond within five (5) days to a written notice of certification mailed to the person's last known address.

**11.3** Notice. The County agrees to give employees scheduled for layoff at least ten (10) work days notice prior to their last day of employment.

**11.4** Special Employment Lists. The County will establish a TET Employment Pool which will include the names of all laid off County employees. Special employment lists for job classes may be established from the pool. Persons placed on a special employment list must meet the minimum qualifications for the class. An appointment from such a list will not affect the individual's status on a layoff list(s).

**11.5** Reassignment of Laid Off Employees. Employees who displaced within the same classification from full time to part-time or intermittent status in a layoff, or who voluntarily reduced their work hours to reduce the impact of layoff, or who accepted a position of another status than that from which they were laid off upon referral from the layoff list, may request reassignment back to their pre-layoff status (full time or part-time or increased hours). The request must be in

## **SECTION 12 - HOLIDAYS**

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writing in accord with each department's reassignment bid or selection process. Employees will be advised of the reassignment procedure to be followed to obtain reassignment back to their former status at the time of the workforce reduction. The most senior laid off employee in this status who requests such a reassignment will be selected for the vacancy; except when a more senior laid off individual remains on the layoff list and has not been appointed back to the class from which laid off, a referral from the layoff list will be made to fill the vacancy.

**11.6 Further Study.** The County agrees to meet with the Labor Coalition for study of the concept of employee's waiver of displacement rights in a layoff.

## **SECTION 12 - HOLIDAYS**

**12.1 Holidays Observed.** The County will observe the following holidays:

- A. January 1st, known as New Year's Day  
Third Monday in January known as Dr. Martin Luther King, Jr. Day  
Third Monday in February, known as Presidents Day  
The last Monday in May, known as Memorial Day  
July 4th known as Independence Day  
First Monday in September, known as Labor Day  
November 11th, known as Veterans Day  
Fourth Thursday in November, known as Thanksgiving Day  
The Friday after Thanksgiving Day  
December 25th, known as Christmas Day

Such other days as the Board of Supervisors may by resolution designate as holidays.

- B Each employee shall accrue two (2) hours of personal holiday credit per month. Such personal holiday time may be taken in increments of one-tenth hour (6 minutes), and preference of personal holidays shall be given to employees according to their seniority in their department as reasonably as possible. No employee may accrue more than forty (40) hours of personal holiday credit. On separation from County service, an employee shall be paid for any unused personal holiday credits at the employee's then current pay rate.

**12.2 Application of Holiday Credit.** The following provisions indicate how holiday credit is to be applied:

- a. Employees on the five (5) day Monday through Friday work schedule shall be entitled to a holiday whenever a holiday is observed pursuant to the schedule cited above.

- b. Employees on a work schedule other than Monday through Friday shall be entitled to credit for any holiday, whether worked or not, observed by employees on the regular schedule.
- c. For all employees, if a work day falls on a scheduled holiday they shall receive overtime pay or equivalent compensatory time credit (Holiday Credit) for working the holiday, or if a holiday falls on the day off of an employee, the employee shall be given straight time pay or equivalent compensatory time credit.
- d. If any holiday listed in Section 12.1.A falls on a Saturday, it shall be celebrated on the preceding Friday. If any holiday listed in Section 12.1.A falls on a Sunday, it shall be celebrated on the following Monday.
- e. For employees in the Health Services Department assigned to units or services on a shift operational cycle which includes Saturday or Sunday as designated by the appointing authority (rather than Monday through Friday eight (8) hours per day or a designated "4/10" or "9/80" schedule) holidays shall be observed on the day on which the holiday falls, regardless if it is a Saturday or Sunday.
- f. For employees in the Animal Services Department assigned to units or services on a shift operational cycle (as designated by the appointing authority) which includes Saturday (rather than Monday through Friday, eight (8) hours per day or 9/80 schedule); holidays will be observed on the day on which the holiday falls regardless if it is a Saturday.

The purpose of this plan is to equalize holidays between employees on regular work schedules and those on other work schedules.

**12.3 Permanent Part-Time Employees.** Permanent part-time and permanent-intermittent employees who work on a holiday shall receive overtime pay or compensatory time credit for all hours worked, up to a maximum of eight (8). Part-time employees shall receive holiday credit in the same ratio to the holiday credit given full time employees as the number of hours per week in the part-time employee's schedule bears to the number of hours in the regular full time schedule, regardless of whether the holiday falls on the part-time employee's regular work day.

**12.4 4/10 Shift - Holidays.**

## **SECTION 12 - HOLIDAYS**

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- A. Holiday Shift Pay. For all employees, if a work day falls on a scheduled holiday, they shall receive overtime pay or equivalent compensatory time credit (Holiday Credit) for working the holiday for the first eight (8) hours worked; or if a holiday falls on the day off of an employee, the employee shall be given straight time pay or equivalent compensatory time credit for eight (8) hours.
- B. Absence on Holiday. The maximum time charged to sick leave, vacation or leave without pay on a holiday shall be two (2) hours.

### **12.5 9/80 Shift Holidays.**

- A. Holiday Shift Pay. For all employees, if a work day falls on a scheduled holiday, they shall receive overtime pay or equivalent compensatory time credit (Holiday Credit) for working the holiday for the first eight (8) hours worked; or if a holiday falls on the day off of an employee, the employee shall be given straight time pay or equivalent compensatory time credit for eight (8) hours.
- B. Absence on Holiday. The maximum time charged to sick leave, vacation, or leave without pay on a holiday shall be one (1) hours.

**12.6 Accrual of Holiday Time & Credit.** Employees entitled to holiday credit shall be permitted to elect between pay at the overtime rate or compensatory time off in recognition of holidays worked.

The following procedures shall apply to this selection:

- a. Any person who is eligible and who elects to accrue holiday credit must agree to do so for a full fiscal year (July 1 through June 30), or the remainder thereof.
- b. Employees starting work after a list of those electing to accrue holiday credit has been submitted to the Auditor and approved, will be paid overtime unless they specifically request in writing within seven (7) calendar days to be placed on the holiday credit accrual list.
- c. Holiday time shall be accrued at the rate specified above to a maximum of eight (8) hours worked by the employee.
- d. Accrued holiday credit may not be accumulated in excess of two hundred eighty-eight (288) working hours exclusive of regular vacation accruals. After two hundred eighty-eight (288) hours, holiday time shall be paid at the rates specified above.



## SECTION 13 - VACATION LEAVE

- e. Accrued holiday credit may be taken off at times determined by mutual agreement of the employee and the Department Head.
- f. Accrued holiday credit shall be paid off only upon a change in status of the employee such as separation, transfer to another department or reassignment to a permanent-intermittent position.

### SECTION 13 - VACATION LEAVE

**13.1 Vacation Allowance.** Employees in permanent positions are entitled to vacation with pay. Accrual is based upon straight time hours of working time per calendar month of service and begins on the date of appointment to a permanent position. Increased accruals begin on the first of the month following the month in which the employee qualifies. Accrual for portions of a month shall be in minimum amounts of one (1) hour calculated on the same basis as for partial month compensation pursuant to Section 5.8 of this MOU. Vacation credits may be taken in 1/10 hour (6 minute) increments but may not be taken during the first six (6) months of employment (not necessarily synonymous with probationary status) except where sick leave has been exhausted.

**13.2 Vacation Leave on Reemployment from a Layoff List.** Employees with six (6) months or more service in a permanent position prior to their layoff, who are employed from a layoff list, shall be considered as having completed six (6) months tenure in a permanent position for the purpose of vacation leave. The appointing authority or designee will advise the Auditor-Controller's Payroll Unit in each case where such vacation is authorized so that appropriate Payroll system override actions can be taken.

**13.3 Vacation Accrual Rates.**

<u>Length of Service</u>	<u>Monthly Accrual Hours</u>	<u>Maximum Cumulative Hours</u>
Under 15 years	10	240
15 through 19 years	13-1/3	320
20 through 24 years	16-2/3	400
25 through 29 years	20	480
30 years and up	23-1/3	560

**13.4 Accrual During Leave Without Pay.** No employee who has been granted a leave without pay or unpaid military leave shall accrue any vacation credit during the time of such leave, nor shall an employee who is absent without pay accrue vacation credit during the absence.

## **SECTION 14 - SICK LEAVE**

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**13.5**        **Vacation Allowance for Separated Employees.** On separation from County service, an employee shall be paid for any unused vacation credits at the employee's then current pay rate.

**13.6**        **Preference.** Preference of vacation shall be given to employees according to their seniority in their department as reasonably as possible.

**13.7**        **Prorated Accruals.** Employees in permanent part-time and permanent-intermittent positions shall accrue vacation benefits on a prorated basis as provided in Ordinance Code Section 36-2.006 of Board Resolution No. 81/1165.

## **SECTION 14 - SICK LEAVE**

**14.1**        **Purpose of Sick Leave.** The primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. It is a benefit extended by the County and may be used only as authorized; it is not paid time off which employees may use for personal activities.

**14.2**        **Credits To and Charges Against Sick Leave.** Sick leave credits accrue at the rate of eight (8) working hours credit for each completed month of service, as prescribed by County Salary Regulations. Employees who work a portion of a month are entitled to a pro rata share of the monthly sick leave credit computed on the same basis as is partial month compensation.

Credits to and charges against sick leave are made in minimum amounts of one-tenth hour (6 minute) increments.

Unused sick leave credits accumulate from year to year. When an employee is separated other than through retirement, accumulated sick leave credits shall be canceled, unless the separation results from layoff, in which case the accumulated credits shall be restored if reemployed in a permanent position within the period of lay off eligibility.

As of the date of retirement, an employee's accumulated sick leave is converted to retirement on the basis of one day of retirement service credit for each day of accumulated sick leave credit.

**14.3**        **Policies Governing the Use of Paid Sick Leave.** As indicated above, the primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. The following definitions apply:

Immediate Family: Includes only the spouse, son, stepson, daughter, stepdaughter, father, stepfather, mother, stepmother, brother, sister, grandparent, grandchild, niece, nephew, father-in-law, mother-in-law, daughter-in-law, son-in-

law, brother-in-law, sister-in-law, foster children, aunt, uncle, cousin, stepbrother, stepsister, or domestic partner of an employee and/or includes any other person for whom the employee is the legal guardian or conservator, or any person who is claimed as a "dependent" for IRS reporting purposes by the employee.

Employee: Any person employed by Contra Costa County in an allocated position in the County service.

Paid Sick Leave Credits: Sick leave credits provided for by County Salary Regulations and memoranda of understanding.

Condition/Reason: With respect to necessary verbal contacts and confirmations which occur between the department and the employee when sick leave is requested or verified, a brief statement in non-technical terms from the employee regarding inability to work due to injury or illness is sufficient.

Accumulated paid sick leave credits may be used, subject to appointing authority approval, by an employee in pay status, but only in the following instances:

- a. Temporary Illness or Injury of an Employee. Paid sick leave credits may be used when the employee is off work because of a temporary illness or injury.
- b. Permanent Disability Sick Leave. Permanent disability means the employee suffers from a disabling physical injury or illness and is thereby prevented from engaging in any County occupation for which the employee is qualified by reason of education, training or experience. Sick leave may be used by permanently disabled employees until all accruals of the employee have been exhausted or until the employee is retired by the Retirement Board, subject to the following conditions:
  1. An application for retirement due to disability has been filed with the Retirement Board.
  2. Satisfactory medical evidence of such disability is received by the appointing authority within thirty (30) days of the start of use of sick leave for permanent disability.
  3. The appointing authority may review medical evidence and order further examination as deemed necessary, and may terminate use of sick leave when such further examination demonstrates that the employee is not disabled, or when the appointing authority determines that the medical evidence submitted by the employee is insufficient, or where the above conditions have not been met.

## **SECTION 14 - SICK LEAVE**

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- c. Communicable Disease. An employee may use paid sick leave credits when under a physician's order to remain secluded due to exposure to a communicable disease.
  
- d. Sick Leave Utilization for Pregnancy Disability. Employees whose disability is caused or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery therefrom, shall be allowed to utilize sick leave credit to the maximum accrued by such employee during the period of such disability under the conditions set forth below:
  - 1. Application for such leave must be made by the employee to the appointing authority accompanied by a written statement of disability from the employee's attending physician. The statement must address itself to the employee's general physical condition having considered the nature of the work performed by the employee, and it must indicate the date of the commencement of the disability as well as the date the physician anticipates the disability to terminate.
  
  - 2. If an employee does not apply for leave and the appointing authority believes that the employee is not able to properly perform her work or that her general health is impaired due to disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery therefrom the employee shall be required to undergo a physical examination by a physician selected by the County. Should the medical report so recommend, a mandatory leave shall be imposed upon the employee for the duration of the disability.
  
  - 3. Sick leave may not be utilized after the employee has been released from the hospital unless the employee has provided the County with a written statement from her attending physician stating that her disability continues and the projected dates of the employee's recovery from such disability.
  
- e. Medical and Dental Appointments. An employee may use paid sick leave credits:
  - 1. For working time used in keeping medical and dental appointments for the employee's own care; and
  
  - 2. For working time used by an employee for pre-scheduled medical and dental appointments for an immediate family member.

- f. Emergency Care of Family. An employee may use paid sick leave credits for working time used in cases of illness or injury to an immediate family member.
- g. Death of Family Member. An employee may use paid sick leave credits for working time used because of a death in the employee's immediate family or of the employee's domestic partner, but this shall not exceed three (3) working days, plus up to two (2) days of work time for necessary travel. Use of additional accruals including sick leave, when appropriate, may be authorized in conjunction with the bereavement leave at the discretion of the appointing authority.
- h. Legal Adoption of a Child. Paid sick leave credits may be used by an employee upon adoption of the child.
- i. Accumulated paid sick leave credits may not be used in the following situations:
  - 1. Vacation. Paid sick leave credits may not be used for an employee's illness or injury which occurs while he is on vacation but the County Administrator may authorize it when extenuating circumstances exist and the appointing authority approves.
  - 2. Not in Pay Status. Paid sick leave credits may not be used when the employee would otherwise be eligible to use paid sick leave credits but is not in pay status.

**14.4** Administration of Sick Leave. The proper administration of sick leave is a responsibility of the employee and the department head. The following procedures apply:

- a. Employee Responsibilities
  - 1. Employees are responsible for notifying their department of an absence prior to the commencement of their work shift or as soon thereafter as possible. Notification shall include the reason and possible duration of the absence.
  - 2. Employees are responsible for keeping their department informed on a continuing basis of their condition and probable date of return to work.
  - 3. Employees are responsible for obtaining advance approval from their supervisor for the scheduled time of pre-arranged personal or family medical and dental appointments.

## **SECTION 14 - SICK LEAVE**

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4. Employees are encouraged to keep the department advised of (1) a current telephone number to which sick leave related inquiries may be directed, and (2) any condition(s) and/or restriction(s) that may reasonably be imposed regarding specific locations and/or persons the department may contact to verify the employee's sick leave.

- b. Department Responsibilities. The use of sick leave may properly be denied if these procedures are not followed. Abuse of sick leave on the part of the employee is cause for disciplinary action.

Departmental approval of sick leave is a certification of the legitimacy of the sick leave claim. The department head or designee may make reasonable inquiries about employee absences. The department may require medical verification for an absence of three (3) or more working days. The department may also require medical verification for absences of less than three (3) working days for probable cause if the employee had been notified in advance in writing that such verification was necessary. Inquiries may be made in the following ways:

1. Calling the employee's residence telephone number or other contact telephone number provided by the employee if telephone notification was not made in accordance with departmental sick leave call-in guidelines. These inquiries shall be subject to any restrictions imposed by the employee under Section 14.4.A.
2. Obtaining the employee's signature on the Absence/Overtime Record, or on another form established for that purpose, as employee certification of the legitimacy of the claim.
3. Obtaining the employee's written statement of explanation regarding the sick leave claim.
4. Requiring the employee to obtain a physician's certificate or verification of the employee's illness, date(s) the employee was incapacitated, and the employee's ability to return to work, as specified above.
5. In absences of an extended nature, requiring the employee to obtain from their physician a statement of progress and anticipated date on which the employee will be able to return to work, as specified above.

Department heads are responsible for establishing timekeeping procedures which will insure the submission of a time card covering each employee absence and for operating their respective offices in accordance with these policies and with clarifying regulations issued by the Office of the County Administrator.

To help assure uniform policy application, the Human Resources Director or designated management staff of the Human Resources Department should be contacted with respect to sick leave determinations about which the department is in doubt.

**14.5 Disability.**

- A. An employee physically or mentally incapacitated for the performance of duty is subject to dismissal, suspension or demotion, subject to the County Employees Retirement Law of 1937. An appointing authority after giving notice may place an employee on leave if the appointing authority has filed an application for disability retirement for the employee, or whom the appointing authority believes to be temporarily or permanently physically or mentally incapacitated from the performance of the employee's duties.
  
- B. An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee's performance of duty, may order the employee to undergo at County expense and on the employee's paid time, a physical, medical examination by a licensed physician and/or psychiatric examination by a licensed physician or psychologist, and receive a report of the findings on such examination. If the examining physician or psychologist recommends that treatment for physical or mental health problems, including leave, are in the best interests of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties the appointing authority may direct the employee to take such leave and/or undergo such treatment.
  
- C. Leave due to temporary or permanent disability shall be without prejudice to the employee's right to use sick leave, vacation, or any other benefit to which the employee is entitled other than regular salary. The Human Resources Director may order lost pay restored

## **SECTION 14 - SICK LEAVE**

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for good cause and subject to the employee's duty to mitigate damages.

- D. Before an employee returns to work from any absence for illness or injury, other leave of absence or disability leave, exceeding two (2) weeks in duration, the appointing authority may order the employee to undergo at County expense a physical, medical, and/or psychiatric examination by a licensed physician, and may consider a report of the findings on such examination. If the report shows that such employee is physically or mentally incapacitated for the performance of duty, the appointing authority may take such action as he deems necessary in accordance with appropriate provisions of this MOU.
- E. Before an employee is placed on an unpaid leave of absence or suspended because of physical or mental incapacity under (A) or (B) above, the employee shall be given notice of the proposed leave of absence or suspension by letter or memorandum, delivered personally or by certified mail, containing the following:
1. a statement of the leave of absence or suspension proposed;
  2. the proposed dates or duration of the leave or suspension which may be indeterminate until a certain physical or mental health condition has been attained by the employee;
  3. a statement of the basis upon which the action is being taken
  4. a statement that the employee may review the materials upon which the action is taken;
  5. a statement that the employee has until a specified date (not less than seven (7) work days from personal delivery or mailing of the notice) to respond to the appointing authority orally or in writing.
- F. Pending response to the notice the appointing authority for cause specified in writing may place the employee on a temporary leave of absence, with pay.
- G. The employee to whom the notice has been delivered or mailed shall have seven (7) work days to respond to the appointing authority either orally or in writing before the proposed action may be taken.
- H. After having complied with the notice requirements above, the appointing authority may order the leave of absence or suspension in writing stating specifically the basis upon which the action is being



taken, delivering the order to the employee either personally or by certified mail, effective either upon personal delivery or deposit in the U.S. Postal Service.

- I. An employee who is placed on leave or suspended under this section may, within ten (10) calendar days after personal delivery or mailing to the employee of the order, appeal the order in writing through the Human Resources Director to the Merit Board. Alternatively, the employee may file a written election with the Human Resources Director waiving the employee's right to appeal to the Merit Board in favor of appeal to a Disability Review Arbitrator.
  
- J. In the event of an appeal either to the Merit Board or the Disability Review Arbitrator, the employee has the burden of proof to show that either:
  - 1. the physical or mental health condition cited by the appointing authority does not exist, or
  - 2. the physical or mental health condition does exist, but it is not sufficient to prevent, preclude, or impair the employee's performance of duty, or is not sufficient to endanger the health or safety of the employee, other employees, or the public.
  
- K. If the appeal is to the Merit Board, the order and appeal shall be transmitted by the Human Resources Director to the Merit Board for hearing under the Merit Board's Procedures, Section 1114-1128 inclusive. Medical reports submitted in evidence in such hearings shall remain confidential information and shall not be a part of the public record.
  
- L. If the appeal is to a Disability Review Arbitrator, the employee (and his representative) will meet with the County's representative to mutually select the Disability Review Arbitrator, who may be a de facto arbitrator, or a physician, or a rehabilitation specialist, or some other recognized specialist mutually selected by the parties. The arbitrator shall hear and review the evidence. The decision of the Disability Review Arbitrator shall be binding on both the County and the employee.

Scope of the Arbitrator's Review.

- 1. The arbitrator may affirm, modify or revoke the leave of absence or suspension.

## **SECTION 14 - SICK LEAVE**

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2. The arbitrator may make his decision based only on evidence submitted by the County and the employee.
3. The arbitrator may order back pay or paid sick leave credits for any period of leave of absence or suspension if the leave or suspension is found not to be sustainable, subject to the employee's duty to mitigate damages.
4. The arbitrator's fees and expenses shall be paid one-half by the County and one-half by the employee or employee's association.

M. It is understood that the benefits specified in Section 14 – Sick Leave and Section 17 – Workers' Compensation, shall be coordinated with the rehabilitation program as determined by the labor-management committee.

**14.6 Accrual During Leave Without Pay.** No employee who has been granted a leave without pay or an unpaid military leave shall accrue any sick leave credits during the time of such leave nor shall an employee who is absent without pay accrue sick leave credits during the absence.

**14.7 Integration of State Disability Benefits with the County Sick Leave Benefit Program.** Employees eligible for State Disability benefits and sick leave benefits for any portion of disability shall be required to make application for both benefits. The State Disability benefits shall be returned to the County to be credited to the employee's sick leave balance on the following basis:

- a. Integration with State Disability is automatic and cannot be waived.
- b. The amount credited to the employee's sick leave balance shall be converted to sick leave hours by dividing the amount received from State Disability Insurance by the employee's straight time hourly rate, at the time of payment, as determined by the appropriate salary schedule for the employee's class of employment.
- c. If the employee is eligible for State Disability Insurance benefits, application must be made and the benefits returned to the County for sick leave credits so that the principle of integration is completed.
- d. In the event an employee is not eligible for sick leave credits from the County, there will be no integration and the employee shall not return State Disability Insurance benefits to the County.

## **SECTION 15 - CATASTROPHIC LEAVE BANK**

- e. In the event an employee receives sick leave benefits for a portion of the disability period, State Disability benefits must be utilized to restore only those sick leave hours used during the period of disability.
- f. Restoration of sick leave balances shall be rounded to the nearest one-half (1/2) hour.
- g. In no instance will an employee be allowed to purchase sick leave not accrued.
- h. The County will provide separate accounting for the purchase sick leave to insure that State Disability Insurance benefits are not taxable.

**14.8 Disability Insurance Review Committee.** The County shall establish a Disability Insurance Review Committee consisting of one (1) representative from each employee organization and four (4) management representatives to review and recommend to the Human Resources Director the feasibility of implementing a self-funded and self-administered disability insurance program.

**14.9 Employee Annual Health Examination.** Employees of the County who work in a Health Services Department facility will annually be required to complete a Health Questionnaire and take a Tuberculosis Skin Test. A chest X-ray will be required if the employee has previously had a positive reaction to a tuberculosis skin test. However employees will not be required to take X-ray exams in excess of what is required by applicable Federal and State laws.

Employees will also be requested to be screened for Rubella immunity. If the result of the Rubella test is negative, the appointing authority or designee will recommend that the employee become immunized. If the employee has direct patient contact and refuses to become immunized, said employee will be relocated to an indirect patient contact area.

**14.10 Confidentiality of Information/Records.** Any use of employee medical records will be governed by the Confidentiality of Medical Information Act (Civil Code Sections 56 to 56.26)

## **SECTION 15 - CATASTROPHIC LEAVE BANK**

**15.1 Program Design.** The Human Resources Department will operate a Catastrophic Leave Bank which is designed to assist any County employee who has exhausted all paid accruals due to a serious or catastrophic illness, injury, or

## **SECTION 15 - CATASTROPHIC LEAVE BANK**

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condition of the employee or family member. The program establishes and maintains a Countywide bank wherein any employee who wishes to contribute may authorize that a portion of his/her accrued vacation, compensatory time, holiday compensatory time or floating holiday be deducted from those account(s) and credited to the Catastrophic Leave Bank. Employees may donate hours either to a specific eligible employee or to the bank. Upon approval, credits from the Catastrophic Leave Bank may be transferred to a requesting employee's sick leave account so that employee may remain in paid status for a longer period of time, thus partially ameliorating the financial impact of the illness, injury, or condition.

Catastrophic illness or injury is defined as a critical medical condition, a long-term major physical impairment or disability which manifests itself during employment.

**15.2**        **Operation.** The plan will be administered under the direction of the Human Resources Director. The Human Resources Department will be responsible for receiving and recording all donations of accruals and for initiating transfer of credits from the Bank to the recipient's sick leave account. Disbursement of accruals will be subject to the approval of a six (6) member committee composed of three (3) members appointed by the County Administrator and three (3) members appointed by the majority representative employee organizations. The committee shall meet as necessary to consider all requests for credits and shall make determinations as to the appropriateness of the request. The committee shall determine the amount of accruals to be awarded for employees whose donations are non-specific. Consideration of all requests by the committee will be on an anonymous requestor basis.

Hours transferred from the Catastrophic Leave Bank to a recipient will be in the form of sick leave accruals and shall be treated as regular sick leave accruals.

To receive credits under this plan, an employee must have permanent status, must have exhausted all time off accruals to a level below eight (8) hours total, have applied for a medical leave of absence and have medical verification of need.

Donations are irrevocable unless the donation to the eligible employee is denied. Donations may be made in hourly blocks with a minimum donation of not less than four (4) hours from balances in the vacation, holiday, floating holiday, compensatory time, or holiday compensatory time accounts. Employees who elect to donate to a specific individual shall have seventy-five percent (75%) of their donation credited to the individual and twenty-five percent (25%) credited to the Catastrophic Leave Bank.

Time donated will be converted to a dollar value and the dollar value will be converted back to sick leave accruals at the recipient's base hourly rate when

## **SECTION 16 - STATE DISABILITY INSURANCE (SDI)**

disbursed. Credits will not be on a straight hour-for-hour basis. All computations will be on a standard 173.33 basis, except that employees on other than a forty (40) hour week will have hours prorated according to their status.

Any recipient will be limited to a total of 1040 hours or its equivalent per catastrophic event; each donor will be limited to 120 hours per calendar year.

No element of this plan is grievable. All appeals from either a donor or recipient will be resolved on a final basis by the Human Resources Director.

No employee will have any entitlement to catastrophic leave benefits. The award of Catastrophic Leave will be at the sole discretion of the committee, both as to amounts of benefits awarded and as to persons awarded benefits. Benefits may be denied, or awarded for less than six (6) months. The committee will be entitled to limit benefits in accordance with available contributions and to choose from among eligible applicants, on an anonymous basis, those who will receive benefits, except for hours donated to a specific employee. In the event a donation is made to a specific employee and the committee determines the employee does not meet the Catastrophic Leave Bank criteria, the donating employee may authorize the hours to be donated to the bank or returned to the donor's account. The donating employee will have fourteen (14) calendar days from notification to submit his/her decision regarding the status of their donation, or the hours will be irrevocably transferred to the Catastrophic Leave Bank.

Any unused hours transferred to a recipient will be returned to the Catastrophic Leave Bank.

## **SECTION 16 - STATE DISABILITY INSURANCE (SDI)**

Effective July 1, 1994, the County will begin a six-month pilot program for employees eligible for State Disability benefits. At the end of the six (6) month pilot program, the County will meet and confer to evaluate whether the plan will be continued. Employees eligible for SDI benefits will be required to make application for SDI benefits and to have those benefits integrated with the use of their sick leave accruals on the following basis:

**16.1 General Provisions.** The California SDI program provides disability benefits beginning on the eighth (8) calendar day of a qualifying disability. The maximum period of state disability payments is up to one year. Determination of SDI payments and eligibility to receive payments is at the sole discretion of the State of California.

Integration means that employees will be required to use sick leave accruals to supplement the difference between the amount of the SDI payment and the

## **SECTION 16 - STATE DISABILITY INSURANCE (SDI)**

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employee's base monthly salary. Integration of sick leave with the SDI benefit is automatic and cannot be waived. Integration applies to all SDI benefits paid. For employees off on SDI, the department will make appropriate integration adjustments, including retroactive adjustments if necessary. Employees must inform their department of hospitalization in a timely manner in order for the department to make appropriate integration adjustments.

State Disability benefit payments will be sent directly to the employees at their home address by the State of California.

When there are insufficient sick leave accruals available to fully supplement the difference between the SDI payment and the employee's base monthly salary, accruals other than sick leave may be used. These accruals may be used only to the extent that total payments do not exceed the employee's base monthly salary.

**16.2        Procedures.** Employees with more than 1.2 hours of sick leave accruals at the beginning of the disability integration period must integrate their sick leave accrual usage with their SDI benefit to the maximum extent possible.

When employees have 1.2 hours or less of sick leave accruals at the beginning of the disability integration period, the department shall automatically use 0.1 hour of sick leave per month for the duration of their SDI benefit.

When sick leave accruals are totally exhausted, integration with the SDI benefit terminates. An employee may use any other accruals without reference to or integration with the SDI benefit.

When the SDI benefit is exhausted, sick leave integration terminates. Then the employee may use sick leave or other accruals.

Employees with no sick leave balance at the beginning of the disability integration period may use any other accruals without reference to or integration with the SDI benefit.

Employees whose SDI claims are denied must present a copy of their claim denial to their department. The department will then authorize use of unused sick leave and shall authorize the use of other accruals as appropriate.

Employees may contact the Human Resources Department, Benefits Division, for assistance in resolving problems.

**16.3        Method of Integration.** Until an employee has a balance of 1.2 hours of sick leave, the employee's sick leave accrual charges while receiving SDI benefits shall be calculated each month.

## SECTION 16 - STATE DISABILITY INSURANCE (SDI)

The amount of sick leave charged each employee will be calculated in the following manner:

The percentage of base monthly salary not covered by the SDI benefit will be applied to the daily hours in the employee's schedule and that number of sick leave hours will be charged against the employee's sick leave accruals.

For purposes of integration with the SDI program, all full time employees' schedules will be converted to 8-hour/5-day weekly work schedules during the period of integration.

The formula for full time employees' sick leave integration charges is shown below:

L =  $[(S-D) \div S] \times 8$   
S = Employee Base Monthly Salary  
H = Estimated Highest Quarter (3-mos) Earnings [H = S x 3]  
W = Weekly SDI Benefit from State of California SDI Weekly Benefit Table  
C = Calendar Days in each Month  
D = Estimated Monthly SDI Benefit [D = (W  $\div$  7) x C]  
L = Sick Leave Charged per Day

Permanent part-time, permanent-intermittent employees, and those full time employees working a light/limited duty reduced schedule program shall have their sick leave integration adjusted accordingly.

**16.4**        **Definition.** "Base Monthly Salary" for purposes of sick leave integration is defined as the salary amount for the employee's step on the salary schedule for the employee's permanent classification as shown in the "Salary" field on the On-Line Payroll Time Reporting System used by departments for payroll reporting purposes.

**16.5**        **Conversion to the New SDI Program.** For all employees receiving SDI benefits prior to July 1, 1994, conversion to the new SDI program operated by departmental payroll staff will be coordinated by the Personnel Department, Benefits Division.

All employee SDI benefit checks received in the Personnel Department and signed over to the County by June 30, 1994, will be deposited and used to buy back the employee's sick leave, with sick leave credits appearing on the July 10th pay warrants insofar as possible.

All Employee SDI benefit checks received, but not signed over to the County, by June 30, 1994, will be returned to the employee. All employee SDI benefit checks

## **SECTION 17 - WORKERS' COMPENSATION**

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received after June 30, 1994, will be returned to the employee. In both these situations, no sick leave buy back will be made, regardless of the calendar period to which the benefit checks pertain. Program transfer to departmental payroll staff will be effective July 1, 1994 for the month of July with the first computation of SDI benefits and integration with sick leave under the new program made on the August 10, 1994 pay warrants covering the July 1994 payroll period.

## **SECTION 17 - WORKERS' COMPENSATION**

A permanent non-safety employee shall continue to receive eighty-seven percent (87%) of regular monthly salary for all accepted claims filed before January 1, 2000. For all accepted claims filed with the County on or after January 1, 2000, the percentage of pay for employees entitled to Workers' Compensation shall be decreased from eighty-seven percent (87%) to eighty-six percent (86%). If Workers' Compensation becomes taxable, the County agrees to restore the original benefit level (100% of monthly salary) and the parties shall meet and confer with respect to funding the increased cost.

- A. Waiting Period. There is a three (3) calendar day waiting period before Workers' Compensation benefits commence. If the injured worker loses any time on the day of injury, that day counts as day one (1) of the waiting period. If the injured worker does not lose time on the date of injury, the waiting period will be the first three (3) calendar days the employee does not work as a result of the injury. The time the employee is scheduled to work during this waiting period will be charged to the employee's sick leave and/or vacation accruals. In order to qualify for Workers' Compensation the employee must be under the care of a physician. Temporary compensation is payable on the first three (3) days of disability when the injury necessitates hospitalization, or when the disability exceeds fourteen (14) days.
- B. Continuing Pay. Permanent employees shall continue to receive 86% of their regular monthly salary during any period of compensable temporary disability not to exceed one year. "Compensable temporary disability absence" for the purpose of this Section, is any absence due to work connected disability which qualifies for temporary disability compensation under Workers' Compensation Law set forth in Division 4 of the California Labor Code. When any disability becomes medically permanent and stationary, the salary provided in this Section shall terminate. No charge shall be made against sick leave or vacation for these salary payments. Sick leave and vacation rights shall not accrue for those periods during which continuing pay is received.



## **SECTION 17 - WORKERS' COMPENSATION**

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Employees shall be entitled to a maximum of one (1) year of continuing pay benefits for any one injury or illness.

- C. Continuing pay begins at the same time that temporary Workers' Compensation benefits commence and continues until either the member is declared medically permanent/stationary or until one (1) year of continuing pay, whichever comes first provided the employee remains in an active employed status. Continuing pay is automatically terminated on the date an employee is separated from County service by resignation, retirement, layoff, or the employee is no longer employed by the County. In these instances, employees will be paid Workers' Compensation benefits as prescribed by Workers' Compensation laws. All continuing pay will be cleared through the County Administrator's Office, Risk Management Division.

Whenever an employee who has been injured on the job and has returned to work is required by an attending physician to leave work for treatment during working hours the employee shall be allowed time off up to three (3) hours for such treatment without loss of pay or benefits. Said visits are to be scheduled contiguous to either the beginning or end of the scheduled work day whenever possible. This provision applies only to injuries/illnesses that have been accepted by the County as work related.

- D. Full Pay Beyond One Year. If an injured employee remains eligible for temporary disability beyond one year, the employee's applicable salary will continue by integrating sick leave and/or vacation accruals with Workers' Compensation benefits. If salary integration is no longer available, Workers' Compensation benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.
- E. Rehabilitation Integration. An injured employee who is eligible for Workers' Compensation Rehabilitation Temporary Disability benefits and whose disability is medically permanent and stationary will continue to receive his/her applicable salary by integrating sick leave and/or vacation accruals with Workers' Compensation Rehabilitation Temporary Disability benefits until those accruals are exhausted. Thereafter, the Rehabilitation Temporary Disability benefits will be paid directly to the employee.
- F. Health Insurance. The County contribution to the employee's group insurance plan(s) continues during the continuing pay period and

## **SECTION 18 - LEAVE OF ABSENCE**

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during integration of sick leave or vacation with Workers' Compensation benefits.

- G. Method of Integration. An employee's sick leave and/or vacation charges shall be calculated as follows:

$$C = 8 [1 - (W \div S)]$$

C = Sick leave or vacation charge per day (in hours)  
W = Statutory Workers' Compensation for a month  
S = Monthly salary

## **SECTION 18 - LEAVE OF ABSENCE**

**18.1 Leave Without Pay.** Any employee who has permanent status may be granted a leave of absence without pay upon written request, approved by the appointing authority; provided, however, that leaves for pregnancy, pregnancy disability, serious health conditions, and family care shall be granted in accordance with applicable state and federal law.

**18.2 General Administration - Leaves of Absence.** Requests for leave without pay shall be made upon forms prescribed by the Human Resources Director and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return.

- A. Leave without pay may be granted for any of the following reasons:
1. Illness or disability;
  2. pregnancy;
  3. parental;
  4. to take a course of study such as will increase the employee's usefulness on return to the position.
  5. for other reasons or circumstances acceptable to the appointing authority.
- B. An employee must request family care leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the employer within five (5) days of learning of the event by which the need for family care leave arises.

- C. A leave without pay may be for a period not to exceed one (1) year, provided the appointing authority may extend such leave for additional periods. The procedure in granting extensions shall be the same as that in granting the original leave, provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.
- D. Nevertheless, a leave of absence for the employee's serious health condition or for family care shall be granted to an employee who so requests it for up to eighteen (18) weeks in each calendar year period in accordance with Section 18.5 below.
- E. Whenever an employee who has been granted a leave without any pay desires to return before the expiration of such leave, the employee shall submit a request to the appointing authority in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the appointing authority. The Human Resources Department shall be notified promptly of such return.
- F. Except in the case of leave of absence due to family care, pregnancy, pregnancy disability, illness, disability, or serious health condition, the decision of the appointing authority on granting or denying leave or early return from leave shall be subject to appeal to the Human Resources Director and not subject to appeal through the grievance procedure set forth in this MOU.

**18.3 Furlough Days Without Pay.** Subject to the prior written approval of the appointing authority, employees may elect to take furlough days or hours without pay (pre-authorized absence without pay), up to a maximum of fifteen (15) calendar days for any one period. Longer pre-authorized absences without pay are considered leaves of absence without pay. Employees who take furlough time shall have their compensation for the portion of the month worked computed in accord with Section 5.8 (Compensation for Portion of Month) of this MOU. Full time and part-time employees who take furlough time shall have their vacation, sick leave, floating holiday, and any other payroll computed accruals computed as though they had worked the furlough time. When computing vacation sick leave, floating holiday, and other accrual credits for employees taking furlough time, this provision shall supersede Section 12.1, 13.1, 13.3, and 14.2 of this MOU regarding the computation of vacation, sick leave, floating holiday, and other accrual credits as regards furlough time only. For payroll purposes, furlough time (absence without pay with prior authorization of the appointing authority) shall be reported separately from other absences without pay to the Auditor-Controller. The existing VTO program shall be continued for the life of the contract.

## **SECTION 18 - LEAVE OF ABSENCE**

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**18.4**        **Military Leave.** Any employee who is ordered to serve as a member of the State Militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard or any division thereof shall be granted a military leave for the period of such service, plus ninety (90) days. Additionally, any employee who volunteers for service during a mobilization under Executive Order of the President or Congress of the United States and/or the State Governor in time of emergency, shall be granted a leave of absence in accordance with applicable federal or state laws. Upon the termination of such service or upon honorable discharge, the employee shall be entitled to return to his/her position in the classified service provided such still exists and the employee is otherwise qualified, without any loss of standing of any kind whatsoever.

An employee who has been granted a military leave shall not, by reason of such absence, suffer any loss of vacation, holiday, or sick leave privileges which may be accrued at the time of such leave, nor shall the employee be prejudiced thereby with reference to salary adjustments or continuation of employment. For purposes of determining eligibility for salary adjustments or seniority in case of layoff or promotional examination, time on military leave shall be considered as time in County service.

Any employee who has been granted a military leave, may upon return, be required to furnish such evidence of performance of military service or of honorable discharge as the Human Resources Director may deem necessary.

**18.5**        **Family Care Leave or Medical Leave.** Upon request to the appointing authority, in each calendar year any employee who has permanent status shall be entitled to at least eighteen (18) weeks leave (less if so requested by the employee) for:

- A.            medical leave of absence for the employee's own serious health condition which makes the employee unable to perform the functions of the employee's position; or
- B.            family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee.

**18.6**        **Certification.** The employee may be asked to provide certification of the need for family care leave or medical leave. Additional period(s) of family care or medical leave may be granted by the appointing authority.

**18.7**        **Intermittent Use of Leave.** The eighteen (18) week entitlement may be in broken periods, intermittently on a regular or irregular basis, or may include

reduced work schedules depending on the specific circumstances and situations surrounding the request for leave. The eighteen (18) week may include use of appropriate available paid leave accruals when accruals are used to maintain pay status, but use of such accruals is not required beyond that specified in Section 18.12 below. When paid leave accruals are used for a medical or family care leave, such time shall be counted as a part of the eighteen (18) week entitlement.

**18.8**      **Aggregate Use for Spouses.** In the situation where husband and wife are both employed by the County, the family care of medical leave entitlement based on the birth, adoption or foster care of a child is limited to an aggregate for both employees together of eighteen (18) weeks during each calendar year period. Employees requesting family care leave are required to advise their appointing authority(ies) when their spouse is also employed by the County.

**18.9**      **Definitions.** For medical and family care leaves of absence under this section, the following definitions apply:

- a.      **Child:** A biological, adopted, or foster child, stepchild, legal ward, conservatee or a child who is under eighteen (18) years of age for whom an employee stands in loco parentis or for whom the employee is the guardian or conservator, or an adult dependent child of the employee.
  
- b.      **Parent:** A biological, foster, or adoptive parent, a step-parent, legal guardian, conservator, or other person standing in loco parentis to a child.
  
- c.      **Spouse:** A partner in marriage as defined in California Civil Code Section 4100.
  
- d.      **Domestic Partner:** An unmarried person, eighteen (18) years or older, to whom the employee is not related and with whom the employee resides and shares the common necessities of life.
  
- e.      **Serious Health Condition:** An illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either inpatient care in a hospital, hospice or residential health care facility or continuing treatment or continuing supervision by a health care provider (e.g. physician or surgeon) as defined by state and federal law.
  
- f.      **Certification for Family Care Leave:** A written communication to the employer from a health care provider of a person for whose care the leave is being taken which need not identify the serious health condition involved, but shall contain:

## **SECTION 18 - LEAVE OF ABSENCE**

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1. the date, if known, on which the serious health condition commenced;
  2. the probable duration of the condition;
  3. an estimate of the amount of time which the employee needs to render care or supervision;
  4. a statement that the serious health condition warrants the participation of a family member to provide care during period of treatment or supervision;
  5. if for intermittent leave or a reduced work schedule leave, the certification should indicate that the intermittent leave or reduced leave schedule is necessary for the care of the individual or will assist in their recovery, and its expected duration.
- g. Certification for Family Medical Leave: A written communication from a health care provider of an employee with a serious health condition or illness to the employer, which need not identify the serious health condition involved, but shall contain:
1. the date, if known, on which the serious health condition commenced;
  2. the probable duration of the condition;
  3. a statement that the employee is unable to perform the functions of the employee's job;
  4. if for intermittent leave or a reduced work schedule leave, the certification should indicate the medical necessity for the intermittent leave or reduced leave schedule and its expected duration.
- h. Comparable Positions: A position with the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave. Ordinarily, the job assignment will be the same duties in the same program area located in the same city, although specific clients, caseload, co-workers, supervisor(s), or other staffing may have changed during an employee's leave.

**18.10**      **Pregnancy Disability Leave.** Insofar as pregnancy disability leave is used under Section 14.3.D - Sick Leave Utilization for Pregnancy Disability, that time will not be considered a part of the eighteen (18) week family care leave period.

**18.11**      **Group Health Plan Coverage.** Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the County contribution by maintaining their employment in pay status as described in Section 14.3.D – Sick Leave Utilization for Pregnancy Disability. During the eighteen (18) weeks of an approved medical or family care leave under Section 18.5 above, the County will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under Section 18.12. In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the County directly.

**18.12**      **Leave Without Pay - Use of Accruals.**

- A.      All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under Section 14.3 - Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and accruals may not be used, except when required by LTD Benefit Coordination or SDI/Sick Leave Integration or as provided in the sections below.
  
- B.      Family Care or Medical Leave. During the eighteen (18) weeks of an approved medical or family care leave, if a portion of that leave will be on a leave of absence without pay, the employee will be *required* to use *at least* 0.1 hour of sick leave (if so entitled under Section 14.3 - Policies Governing the Use of Paid Sick Leave), vacation floating holiday, compensatory time off or other accruals or entitlements if such are available, although use of additional accruals is permitted under subsection A. above.
  
- C.      Leave of Absence/Long Term Disability (LTD) Benefit Coordination. An eligible employee who files an LTD claim and concurrently takes a leave of absence without pay will be required to use accruals as provided in Section B herein during the eighteen (18) weeks entitlement period of a medical leave specified above. If an eligible

## **SECTION 18 - LEAVE OF ABSENCE**

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employee continues beyond the eighteen (18) weeks entitlement period on a concurrent leave of absence/LTD claim, the employee may choose to maintain further pay status only as allowed under subsection A. herein.

- D. Sick leave accruals may not be used during any leave of absence, except as allowed under Section 14.3 - Policies Governing the Use of Paid Sick Leave.

**18.13 Leave of Absence Replacement and Reinstatement.** Any permanent employee who requests reinstatement to the classification held by the employee in the same department at the time the employee was granted a leave of absence, shall be reinstated to a position in that classification and department and then only on the basis of seniority. In case of severance from service by reason of the reinstatement of a permanent employee, the provisions of Section 11 - Seniority, Workforce Reduction, Layoff & Reassignment shall apply.

**18.14 Reinstatement From Family Care Medical Leave.** In the case of a family care or medical leave, an employee on a 5/40 schedule shall be reinstated to the same or comparable position if the return to work is after no more than ninety (90) work days of leave from the initial date of a continuous leave, including use of accruals, or within the equivalent on an alternate work schedule. A full time employee taking an intermittent or reduced work schedule leave shall be reinstated to the same or comparable position if the return to work on a full schedule is after no more than 720 hours, including use of accruals, of intermittent or reduced schedule leave. At the time the original leave is approved, the appointing authority shall notify the employee in writing of the final date to return to work, or the maximum number of hours of leave, in order to guarantee reinstatement to the same or comparable position. An employee on a schedule other than 5/40 shall have the time frame for reinstatement to the same or comparable position adjusted on a pro rata basis.

**18.15 Salary Review While on Leave of Absence.** The salary of an employee who is on leave of absence from a County position on any anniversary date and who has not been absent from the position on leave without pay more than six (6) months during the preceding year, shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

**18.16 Unauthorized Absence.** An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.



## **SECTION 19 - JURY DUTY AND WITNESS DUTY**

**18.17** **Non-Exclusivity.** Other MOU language on this subject, not in conflict with this MOU, shall remain in effect.

### **SECTION 19 - JURY DUTY AND WITNESS DUTY**

**19.1** **Jury Duty.** For purposes of this Section, jury duty shall be defined as any time an employee is obligated to report to the court.

When called for jury duty, County employees, like other citizens, are expected to discharge their jury duty responsibilities.

Employees shall advise their department as soon as possible if scheduled to appear for jury duty.

If summoned for jury duty in a Municipal, Superior, or Federal Court, or a Coroner's jury, employees may remain in their regular County pay status, or they may take paid leave (vacation, floating holiday, etc.) or leave without pay and retain all fees and expenses paid to them.

When an employee is summoned for jury duty selection or is selected as a juror in a Municipal, Superior or Federal Court, employees may remain in a regular pay status if they waive all fees (other than mileage), regardless of shift assignment and the following shall apply:

- a. If an employee elects to remain in a regular pay status and waive or surrender all fees (other than mileage), the employee shall obtain from the Clerk or Jury Commissioner a certificate indicating the days attended and noting that fees other than mileage are waived or surrendered. The employee shall furnish the certificate to his department where it will be retained as a department record. No "Absence/Overtime Record" is required.
- b. An employee who elects to retain all fees must take leave (vacation, floating holiday, etc.) or leave without pay. No court certificate is required but an "Absence/Overtime Record" must be submitted to the department payroll clerk.

Employees are not permitted to engage in any employment regardless of shift assignment or occupation before or after daily jury service that would affect their ability to properly serve as jurors.

An employee on short notice standby to report to court, whose job duties make short notice response impossible or impractical, shall be given alternate work

## **SECTION 20 - HEALTH, LIFE & DENTAL CARE**

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assignments for those days to enable them to respond to the court on short notice.

When an employee is required to serve on jury duty, the County will adjust that employee's work schedule to coincide with a Monday to Friday schedule for the remainder of their service, unless the employee requests otherwise. Participants in 9/80-4/10 work schedules will not receive overtime or comp. time credit for Jury Duty on their scheduled days off.

Permanent-intermittent employees are entitled to paid jury duty leave only for those days on which they were previously scheduled to work.

**19.2**        **Witness Duty.** Employees called upon as a witness or an expert witness in a case arising in the course of their work or the work of another department may remain in their regular pay status and turn over to the County all fees and expenses/ paid to them, other than mileage allowance, or they may take vacation leave or leave without pay and retain all fees and expenses.

Employees called to serve as witnesses in private cases or personal matters (e.g., accident suits and family relations) shall take vacation leave or leave without pay and retain all witness fees paid to them.

Retention or waiver of fees shall be governed by the same provisions as apply to jury duty as set forth in Section 19 of this MOU. Employees shall advise their department as soon as possible if scheduled to appear for witness duty. Permanent-intermittent employees are entitled to paid witness duty only for those days on which they were previously scheduled to work.

## **SECTION 20 - HEALTH, LIFE & DENTAL CARE**

**20.1**        **County Programs.** The County will continue to offer existing County Group Benefit Programs of medical, dental and life insurance coverage through December 31, 1999 to all permanent employees regularly scheduled to work twenty (20) or more hours per week. Effective January 1, 2000, the County will offer Group Benefit Programs for medical, dental and life insurance coverage to all permanent employees regularly scheduled to work twenty (20) hours or more per week as described in the September 30, 1999 agreement (Attachment E) between the County and the Labor Coalition.

**20.2**        **Rate Information.** The County Benefits Division will make health and dental plan rate information available upon request to employees and departments. In addition, the County Benefits Division will publish and distribute to employees and departments information about rate changes as they occur during the year.

**20.3**        **Medicare Rates.** Corresponding Medicare rates for employees covered under this MOU shall be as follows: for Employee Only on Medicare by taking the Employee Only rate for the option selected and subtracting the monthly Part B Medicare premium withheld from Social Security payments for one enrollee; for Employee and Dependent(s) with one member on Medicare by taking the Employee and Dependent(s) rate for the option selected and subtracting the monthly Part B Medicare premium withheld from Social Security payments for one enrollee; for Employee and Dependent(s) with two members on Medicare by taking the Employee and Dependent(s) rate for the option selected and subtracting the monthly Part B Medicare premium withheld from Social Security payments for two enrollees.

**20.4**        **Partial Month.** The County's contribution to the Health Plan premium is payable for any month in which the employee is paid. If an employee is not paid enough compensation in a month to pay the employee share of the premium, the employee must make up the difference by remitting the amount delinquent to the Auditor-Controller. The responsibility for this payment rests with the employee. If payment is not made, the employee shall be dropped from the health plan. An employee is thus covered by the health plan for the month in which compensation is paid.

**20.5**        **Coverage During Absences.** An employee on approved leave shall be allowed to continue his/her health plan coverage at the County group rate for twelve (12) months provided that the employee shall pay the entire premium for the Health Plan during said leave.

An employee on leave in excess of twelve (12) months may continue health plan coverage by converting to an individual health plan option (if available) or continuing group coverage subject to the provisions of the Consolidated Omnibus Budget Reduction Act (COBRA) provided the employee pays the entire cost of coverage, plus any administrative fees, for the option selected. The entire cost of coverage shall be paid at a place and time specified by the County. Late payment may result in cancellation of health plan coverage with no reinstatement allowed.

An employee who terminates County employment may convert to individual health plan coverage, if available, or may continue County group health plan coverage to the extent provided under COBRA by making premium payments to the County at a time and place specified by the County.

**20.6**        **Retirement Coverage.** Upon retirement, employees may remain in the same County group medical plan if immediately before their retirement they are either active subscribers to one of the County Health Plans or if on authorized leave of absence without pay they have retained their membership by either continuing to pay their monthly premium to the County by the deadlines

## **SECTION 20 - HEALTH, LIFE & DENTAL CARE**

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established by the County or converting to individual conversion membership from the County plan through the medical plan carrier, if available.

**20.7**        **Dual Coverage.** If a husband and wife both work for the County and one of them is laid off, the remaining eligible shall be allowed to enroll or transfer into the health coverage combination of his/her choice.

An eligible employee who is no longer covered for medical or dental coverage through a spouse's coverage shall be allowed to enroll or transfer into the health coverage combination of his/her choice within thirty (30) days of the date coverage is no longer afforded under the spouse's plan.

**20.8**        **Child Care.** The County will continue to support the concept of non-profit child care facilities similar to the "Kid's at Work" program established in the Public Works Department.

**20.9**        **Health Care Spending Account.** The County will offer regular full-time and part-time (20/40 or greater) County employees the option to participate in a Health Care Spending Account (HCSA) Program designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a pre-determined amount of money from their paycheck, not to exceed \$2400 per year, for health care expenses not reimbursed by any other health benefits plan with before tax dollars. Effective January 1, 2000, this amount shall be increased to \$3000 per year. HCSA dollars can be expended on any eligible medical expenses allowed by Internal Revenue Code Section 125. Any unused balance cannot be recovered by the employee.

**20.10**       **PERS Long Term Care.** The County proposes to deduct and remit monthly premium and eligible lists to the PERS Long Term Care Administrator, at no County administrative cost, for County employees who are eligible and voluntarily elect to purchase long term care through the PERS Long Term Care Program.

The County further agrees that County employees interested in purchasing PERS Long Term Care may participate in meetings scheduled by PERS Long Term Care in County facilities during non-work hours. (i.e.: coffee breaks, lunch hour).

**20.11**       **Deferred Retirement.** Effective two months following an approved agreement, employees who resign and file for a deferred retirement may continue in their County group health and dental plan; the following conditions and limitations apply:

- a.            Life insurance coverage is not included.

## ***SECTION 20 - HEALTH, LIFE & DENTAL CARE***

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- b. To be eligible to continue health and dental coverage, the employee must:
  - 1. be qualified for a deferred retirement under the 1937 Retirement Act provisions.
  - 2. be an active member of a County group health and/or dental plan at the time of filing their deferred retirement application and elect to continue health benefits.
  - 3. be eligible for a monthly allowance from the Retirement System and direct receipt of a monthly allowance within twenty-four (24) months of their application for deferred retirement.
  - 4. file an election to defer retirement and to continue health benefits hereunder with the County Benefits Division within thirty (30) days before their separation from county service.
- c. Deferred retirees who elect continued health benefits hereunder may maintain continuous membership in their County health and/or dental plan group during the period of deferred retirement at their full personal expense, by paying the full premium for their health and dental coverage on or before the 11th of each month to the Auditor-Controller. When they begin to receive retirement benefits, they will qualify for the same health and/or dental plan coverage and county subvention to which retirees who did not defer retirement are entitled.
- d. Deferred retirees who elect continued health benefits hereunder may elect not to maintain participation in their county health and/or dental plan during their deferred retirement period; and may instead qualify for the same coverage and county subvention in any County health and/or dental plan when they begin to receive retirement benefits as retirees who did not defer retirement are entitled; provided reinstatement to a County group health and/or dental plan with county subvention occurs no sooner than the first of the month following a full three (3) calendar month waiting period after the commencement of their monthly allowance.
- e. Eligibility for County subvention will not exist hereunder unless and until the member draws a monthly retirement allowance within not more than twenty-four (24) months after separation from County service.
- f. Deferred retirees are required to meet the same eligibility provisions for health/dental plans as active/retired employees.

## **SECTION 21 - PROBATIONARY PERIOD**

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### **SECTION 21 - PROBATIONARY PERIOD**

**21.1** **Duration.** All appointments from officially promulgated employment lists for original entrance or promotion shall be subject to a probationary period. For original entrance appointments, the probationary period shall be from nine (9) months to two (2) years duration. For promotional appointments, the probation period shall be from six (6) months to two (2) years duration.

**21.2** **Revised Probationary Period.** When the probationary period for a class is changed, only new appointees to positions in the classification shall be subject to the revised probationary period.

**21.3** **Criteria.** The probationary period shall date from the time of appointment to a permanent position after certification from an eligible list. It shall not include time served under provisional appointment or under appointment to limited term positions or any period of continuous leave of absence without pay or period of work connected disability exceeding fifteen (15) calendar days.

For those employees appointed to permanent-intermittent positions with a nine (9) month probation period, probation will be considered completed upon serving fifteen hundred (1500) hours after appointment except that in no instance will this period be less than nine (9) calendar months from the beginning of probation. If a permanent-intermittent probationary employee is reassigned to full time, credit toward probation completion in the full time position shall be prorated on the basis of one hundred seventy-three (173) hours per month.

**21.4** **Rejection During Probation.** An employee who is rejected during the probation period and restored to the eligible list shall begin a new probationary period if subsequently certified and appointed.

A. **Appeal From Rejection.** Notwithstanding any other provisions of this section, an employee (probationer) shall have the right to appeal from any rejection during the probationary period based on political, or religious, or union activities, or race, color, national origin, sex, age, disability, or sexual orientation.

B. The appeal must be written, must be signed by the employee and set forth the grounds and facts by which it is claimed that grounds for appeal exist under Subsection A and must be filed through the Human Resources Director to the Merit Board by 5:00 p.m. on the seventh (7th) calendar day after the date of delivery to the employee of notice of rejection.

- C. The Merit Board shall consider the appeal, and if it finds probable cause to believe that the rejection may have been based on grounds prohibited in Subsection A, it may refer the matter to a Hearing Officer for hearing, recommended findings of fact, conclusions of law and decision, pursuant to the relevant provisions of the Merit Board rules in which proceedings the rejected probationer has the burden of proof.
- D. If the Merit Board finds no probable cause for a hearing, it shall deny the appeal. If, after hearing, the Merit Board upholds the appeal, it shall direct that the appellant be reinstated in the position and the appellant shall begin a new probationary period unless the Merit Board specifically reinstates the former period.

**21.5 Regular Appointment.** The regular appointment of a probationary employee shall begin on the day following the end of the probationary period, subject to the condition that the Human Resources Director receive from the appointing authority a statement in writing that the services of the employee during the probationary period were satisfactory and that the employee is recommended for permanent appointment. A probationary employee may be rejected at any time during the probation period without regard to the Skelly provisions of this MOU, without notice and without right of appeal or hearing except as provided in Section 21.4.A. If the appointing authority has not returned the probation report, a probationary employee may be rejected from the service within a reasonable time after the probation period for failure to pass probation. The appointing authority shall attempt to give a probationary employee five (5) days notice of said rejection. If the appointing authority fails to submit in a timely manner the proper written documents certifying that a probationary employee has served in a satisfactory manner and later acknowledges it was his or her intention to do so, the regular appointment shall begin on the day following the end of the probationary period.

Notwithstanding any other provisions of the MOU, an employee rejected during the probation period from a position in the Merit System to which the employee had been promoted or transferred from an eligible list, shall be restored to a position in the department from which the employee was promoted or transferred.

An employee dismissed for other than disciplinary reasons within six (6) months after being promoted or transferred from a position in the Merit System to a position not included in the Merit System shall be restored to a position in the classification in the department from which the employee was promoted or transferred.

A probationary employee who has been rejected or has resigned during probation shall not be restored to the eligible list from which the employee was certified

## **SECTION 22 - PROMOTION**

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unless the employee receives the affirmative recommendation from the appointing authority and is certified by the Human Resources Director whose decision is final. The Human Resources Director shall not certify the name of a person restored to the eligible list to the same appointing authority by whom the person was rejected from the same eligible list, unless such certification is requested in writing by the appointing authority.

**21.6 Layoff During Probation.** An employee who is laid off during probation, if reemployed in the same class by the same department, shall be required to complete only the balance of the required probation.

If reemployed in another department or in another classification, the employee shall serve a full probationary period. An employee appointed to a permanent position from a layoff or reemployment list is subject to a probation period if the position is in a department other than the department from which the employee separated, displaced, or voluntarily demoted in lieu of layoff. An appointment from a layoff or reemployment list is not subject to a probation period if the position is in the department from which the employee separated, displaced or voluntarily demoted in lieu of layoff.

**21.7 Rejection During Probation of Layoff Employee.** An employee who has achieved permanent status in the class before layoff and who subsequently is appointed from the layoff list and then rejected during the probation period shall be automatically restored to the layoff list, unless discharged for cause, if the person is within the period of layoff eligibility. The employee shall begin a new probation period if subsequently certified and appointed in a different department or classification than that from which the employee was laid off.

## **SECTION 22 - PROMOTION**

**22.1 Competitive Exam.** Promotion shall be by competitive examination unless otherwise provided in this MOU.

**22.2 Promotion Policy.** The Human Resources Director, upon request of an appointing authority, shall determine whether an examination is to be called on a promotional basis.

**22.3 Open Exams.** If an examination for one of the classes represented by the Union is proposed to be announced on an open only basis, the Human Resources Director shall give five (5) days prior notice of such proposed announcement and shall meet at the request of the Union to discuss the reasons for such open announcement.



**22.4 Promotion Via Reclassification Without Exam.** Notwithstanding other provisions of this Section, an employee may be promoted from one classification to a higher classification and his/her position reclassified at the request of the appointing authority and under the following conditions:

- a. An evaluation of the position(s) in question must show that the duties and responsibilities have significantly increased and constitute a higher level of work.
- b. The incumbent of the position must have performed at the higher level for one (1) year.
- c. The incumbent must meet the minimum education and experience requirements for the higher class.
- d. The action must have approval of the Human Resources Director.
- e. The Union approves such action.
- f. Except in unique situations approved by the Human Resources Director, the employee must have passed the examination, if any, for the classification and be on the eligible list.

The appropriate rules regarding probationary status and salary on promotion are applicable.

**22.5 Requirements for Promotional Standing.** In order to qualify for an examination called on a promotional basis, an employee must have probationary or permanent status in the Merit System and must possess the minimum qualifications for the class. Applicants will be admitted to promotional examinations only if the requirements are met on or before the final filing date. If an employee who is qualified on a promotional employment list is separated from the Merit System, except by layoff, the employee's name shall be removed from the promotional list.

**22.6 Seniority Credits.** Employees who have qualified to take promotional examinations and who have earned a total score, not including seniority credits, of seventy percent (70%) or more shall receive, in addition to all other credits, five one-hundredths of one percent (.05%) for each completed month of service as a permanent County employee continuously preceding the final date for filing application for said examination. For purposes of seniority credits, leaves of absence shall be considered as service. Seniority credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five percent (5%) credit for seniority in any promotional examination.

## **SECTION 23 - TRANSFER**

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**22.7 Denial of Review.** If a department denies an employee's request for reclassification or reassignment to a higher (not flexibly staffed) level in a deep class or to other classes represented by the Union, upon request of the Union, the denial will be reviewed by the Human Resources Director and appointing authority. The decision of the Human Resources Director shall be given to the Union in writing within sixty (60) days of the request of the review.

**22.8 Release Time for Examinations.** Permanent employees shall be granted release time from work without loss of pay to take County examinations or take interviews for a County position provided the employee gives the Department sufficient notice of the need for time off.

## **SECTION 23 - TRANSFER**

**23.1 Transfer Conditions.** The following conditions are required in order to qualify for transfer:

- a. The position shall be in the same class, or if in a different class shall have been determined by the Human Resources Director to be appropriate for transfer on the basis of minimum qualifications and qualifying procedure;
- b. the employee shall have permanent status in the Merit System and shall be in good standing;
- c. the appointing authority or authorities involved in the transaction shall have indicated their agreement in writing;
- d. the employee concerned shall have indicated agreement to the change in writing;
- e. the Human Resources Director shall have approved the change.

Notwithstanding the foregoing, transfer may also be accomplished through the regular appointment procedure provided that the individual desiring transfer has eligibility on a list for a class for which appointment is being considered.

When an employee's name is added to the Transfer List, the County will provide that employee with a copy of the Transfer List on which his/her name appears.

**23.2 Transfer Policy.** Any employee or appointing authority who desires to initiate a transfer may inform the Human Resources Director in writing of such desire stating the reasons therefore. The Human Resources Director shall, if he

or she considers that the reasons are adequate and that the transfer will be for the good of the County service and the parties involved, inform the appointing authority or authorities concerned and the employee of the proposal and may take the initiative in accomplishing the transfer.

The County will update the Departmental Contact List within ninety (90) days of approval by the Board of Supervisors of the 1995-1999 Memoranda of Understanding. Within ninety (90) days of approval by the Board of Supervisors of the 1995-1999 Memoranda of Understanding, the County will place Bid Notice summaries on E-Mail so employees can inquire about transfer possibilities. Each department will provide copies of all Bid Notices within their department to the union. It is the responsibility of employees to contact County departments and inform them of their desire to transfer. County departments may, but are not required to maintain an ongoing list of employees interested in transferring when a position becomes available. Employees who transfer from one department to another shall serve a three (3) month probationary period. Provisions of this section do not apply to transfers from eligible lists.

**23.3 Transfer Procedure.** The Human Resources Director will send a list of employees interested in a transfer to departments with each certification (referral) from an employment list for a vacant position. The appointing authority will review the transfer list and may contact employees interested in a transfer. In the case of vacant positions at the Clerk-Senior and Specialist levels, Secretary-Advanced Level, Deputy Clerk-Senior, Specialist and Courtroom Clerk levels, and Account Clerk-Advanced level where the deep class resolution requires notification/posting of the vacancy and interview of interested "bidders" within a department, the appointing authority may request from the Human Resources Director a referral from the transfer list of employees who have indicated an interest in such a transfer. The appointing authority may contact the employees interested in a transfer and may choose to interview them in relation to the vacancy. The decision of the appointing authority is final. Upon receipt of the proper documents and in accordance with Sections 23.1 and 23.2, employees will be eligible for transfer upon receipt of approval of the Human Resources Director. Nothing in this section limits the ability of individuals to express their interest in a transfer without having first made a transfer application or restricts an appointing authority from making a transfer appointment of such an individual.

**23.4 Reassignment of Work Location.** Employees desirous of reassignment to a position in the same classification at another work location shall submit a request for reassignment in writing to the Department Head. When openings occur in various work locations, requests for reassignment will be reviewed with consideration given to various factors including but not limited to distance of employee's residence from desired work location and relative length of service of the applicants for a particular location. The Department Head or designated representative shall make the sole determination as to assignment of

## **SECTION 24 – RESIGNATIONS**

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personnel, except as otherwise provided in the supplemental sections of this MOU. This provision applies to intradepartmental reassignments only. In no event shall reassignments be utilized for disciplinary purposes.

**23.5 Departmental Transfer Agreements.** The agreements between the Union and the Probation Department, Employment & Human Services Department, Sheriff's Department and Health Services Department concerning transfer procedures for clerical workers covered by this MOU shall remain in full force and effect during the duration of this Agreement.

**23.6 Transfer Without Examination.** With the approval of the appropriate appointing authority/authorities and the consent of the employee, the Human Resources Director may transfer an employee from one job classification to another job classification without examination under the following conditions:

- a. The duties and responsibilities of the position from which the employee is being transferred are within the occupational area or directly associated with the duties and responsibilities of the position to which the employee is being transferred.
- b. The employee must possess the minimum qualifications for the job classification to which the employee is being transferred.
- c. The employee must serve the probationary period required for the classification into which the employee is being transferred.
- d. An employee rejected during the probationary period or who resigns during the probationary period for other than disciplinary reasons shall have the right at that time to be restored to a position in the classification in the department from which the employee was transferred.

## **SECTION 24 – RESIGNATIONS**

An employee's voluntary termination of service is a resignation. Written resignations shall be forwarded to the Human Resources Department by the appointing authority immediately on receipt, and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the appointing authority in writing to the employee and to the Human Resources Department and shall indicate the effective date of termination.

**24.1 Resignation in Good Standing.** A resignation giving the appointing authority written notice at least two (2) weeks in advance of the last date of service (unless the appointing authority requires a longer period of notice, or

consents to the employee's terminating on shorter notice) is a resignation in good standing.

**24.2 Constructive Resignation.** A constructive resignation occurs and is effective when:

- a. An employee has been absent from duty for five (5) consecutive working days without leave; and
- b. Five (5) more consecutive working days have elapsed without response by employee after the mailing of a notice of resignation by the appointing authority to the employee at the employee's last known address.

**24.3 Effective Resignation.** A resignation is effective when delivered or spoken to the appointing authority, operative either on that date or another date specified.

**24.4 Revocation.** A resignation that is effective is revocable only by written concurrence of the employee and the appointing authority.

**24.5 Coerced Resignations.**

- A. Time Limit. A resignation which the employee believes has been coerced by the appointing authority may be revoked within seven (7) calendar days after its expression, by serving written notice on the Human Resources Director and a copy on the appointing authority.
- B. Reinstatement. If the appointing authority acknowledges that the employee could have believed that the resignation was coerced, it shall be revoked and the employee returned to duty effective on the day following the appointing authority's acknowledgment without loss of seniority or pay.
- C. Contest. Unless, within seven (7) days of the receipt of the notice, the appointing authority acknowledges that the resignation could have been believed to be coerced, this question should be handled as an appeal to the Merit Board. In the alternative, the employee may file a written election with the Human Resources Director waiving the employee's right of appeal to the Merit Board in favor of the employee's appeal rights under the grievance procedure contained in Section 26 – Grievance Procedure of the MOU beginning with Step 3.

## **SECTION 25 -DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN PAY, AND DEMOTION**

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- D. Disposition. If a final decision is rendered that determines that the resignation was coerced, the resignation shall be deemed revoked and the employee returned to duty effective on the day following the decision but without loss of seniority or pay, subject to the employee's duty to mitigate damages.

**24.6 Eligibility for Reemployment**. Within one (1) year of resignation in good standing from County service, a person who has had permanent status which included satisfactory completion of probation may make application by letter to the Human Resources Director for placement on a reemployment list as follows: the class from which the person resigned; or any one class of equal or lesser rank in the occupational series and in which the person had previously attained permanent status; or for any class or deep class which has replaced the class in which the person previously had status, provided that the person meets the minimum requirements for the new class. If the appointing authority of the department from which the person resigned recommends reemployment the Human Resources Director shall grant reemployment privileges to the person. Consideration of names from a reemployment list is mandatory if the appointing authority recommended reemployment of the individual(s) listed but is optional for other appointing authorities. Names may be removed from reemployment lists in accordance with the provisions of Section 11.2(J) – Separation Through Layoff of this MOU.

## **SECTION 25 -DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN PAY, AND DEMOTION**

**25.1 Sufficient Cause for Action**. The appointing authority may dismiss, suspend, temporarily reduce pay, or demote, any employee for cause. A temporary reduction in pay is not to exceed more than five percent (5%) for a period of up to three (3) months. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension, temporary reduction in pay, or demotion may be based on reasons other than those specifically mentioned:

- a. absence without leave,
- b. conviction of any criminal act involving moral turpitude,
- c. conduct tending to bring the Merit System into disrepute,
- d. disorderly or immoral conduct,
- e. incompetence or inefficiency,

**SECTION 25 -DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN  
PAY, AND DEMOTION**

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- f. insubordination,
- g. being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on County premises,
- h. neglect of duty, i.e. non-performance of assigned responsibilities,
- i. negligent or willful damage to public property or waste of public supplies or equipment,
- j. violation of any lawful or reasonable regulation or order given by a supervisor or Department Head,
- k. willful violation of any of the provisions of the Merit System ordinance or Personnel Management Regulations,
- l. material and intentional misrepresentation or concealment of any fact in connection with obtaining employment,
- m. misappropriation of County funds or property,
- n. unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this MOU,
- o. dishonesty or theft,
- p. excessive or unexcused absenteeism and/or tardiness.
- q. sexual harassment, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating and hostile working environment.

**25.2 Skelly Requirements.** Notice of Proposed Action (Skelly Notice). Before taking a disciplinary action to dismiss, suspend for more than five (5) work days (four (4) work days for employees on 4-10 work week), temporarily reduce the pay of or demote an employee, the appointing authority shall cause to be served personally or by certified mail on the employee, a Notice of Proposed Action, which shall contain the following:

- a. A statement of the action proposed to be taken.

## **SECTION 25 -DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN PAY, AND DEMOTION**

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- b. A copy of the charges, including the acts or omissions and grounds upon which the action is based.
- c. If it is claimed that the employee has violated a rule or regulation of the County, department or district, a copy of said rule shall be included with the notice.
- d. A statement that the employee may review and request copies of materials upon which the proposed action is based.
- e. A statement that the employee has seven (7) calendar days to respond to the appointing authority either orally or in writing.

**25.3 Employee Response.** The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the appointing authority either orally or in writing before the proposed action may be taken. Upon request of the employee and for good cause, the appointing authority may extend in writing the period to respond. If the employee's response is not filed within seven (7) calendar days or during any extension, the right to respond is lost.

**25.4 Leave Pending Employee Response.** Pending response to a Notice of Proposed Action within the first seven (7) calendar days or extension thereof, the appointing authority for cause specified in writing may place the employee on temporary leave of absence, with pay.

**25.5 Length of Suspension.** Suspensions without pay shall not exceed thirty (30) calendar days unless ordered by an arbitrator, an adjustment board or the Merit Board.

### **25.6 Procedure on Dismissal, Suspension, Temporary Reduction in Pay or Disciplinary Demotion.**

- A. In any disciplinary action to dismiss, suspend, temporarily reduce pay, or demote an employee having permanent status in a position in the Merit System, after having complied with the Skelly requirements where applicable, the appointing authority shall make an order in writing stating specifically the causes for the action.
- B. Service of Order. Said order of dismissal, suspension, temporary reduction of pay, or demotion shall be filed with the Human Resources Director, showing by whom and the date a copy was served upon the employee to be dismissed, suspended or demoted,



## **SECTION 26 - GRIEVANCE PROCEDURE**

either personally or by certified mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U. S. Postal Service.

- C. Employee Appeals from Order. The employee may appeal an order of dismissal, suspension, temporary reduction of pay, or demotion either to the Merit Board or through the procedures of Section 26 - Grievance Procedure of this MOU provided that such appeal is filed in writing with the Human Resources Director within ten (10) calendar days after service of said order. An employee may not both appeal to the Merit Board and file a grievance under Section 26 of this MOU.

**25.7 Weingarten Rights.** In accordance with applicable Federal law, an employee is entitled to have a union representative present at an investigatory interview with the employee's supervisor when the employee reasonably believes that disciplinary action might result. It is the responsibility of the employee to request the presence of a union representative, and when such a request is made by the employee, the investigatory interview shall be temporarily recessed for a reasonable period of time until a union representative can be present.

## **SECTION 26 - GRIEVANCE PROCEDURE**

**26.1 Definition and Procedural Steps.** A grievance is any dispute which involves the interpretation or application of any provision of this MOU excluding, however, those provisions of this MOU which specifically provide that the decision of any County official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure. The Union may represent the grievant at any stage of the process. Grievances must be filed within thirty (30) calendar days of the incident or occurrence about which the claims to have a grievance and shall be processed in the following manner:

**Step 1.** Any employee or group of employees who believes that a provision of this MOU has been misinterpreted or misapplied to his or her detriment shall discuss the complaint with the grievant's immediate supervisor, who shall meet with the grievant within five (5) work days of receipt of a written request to hold such meeting.

**Step 2.** If a grievance is not satisfactorily resolved in Step 1 above, the grievant may submit the grievance in writing within ten (10) work days to such management official as the Department Head may designate. This formal written grievance shall state which provision of the MOU has been misinterpreted or misapplied, how misapplication or misinterpretation has affected him or her to his or her detriment, and the redress he or she seeks. A copy of each written communication on a grievance shall be filed with the Human Resources Director.

## **SECTION 26 - GRIEVANCE PROCEDURE**

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The Department Head or his or her designee shall have ten (10) work days in which to respond to the grievance in writing.

**Step 3.** If a grievance is not satisfactorily resolved in Step 2 above, the grievant may appeal in writing within ten (10) work days to the Human Resources Director. The Human Resources Director or his or her designee shall have twenty (20) work days in which to investigate the merit of the complaint and to meet with the Department Head and the grievant and attempt to settle the grievance.

**Step 4.** No grievance may be processed under this Section which has not first been filed and investigated in accordance with Step 3 above and filed within ten (10) work days of the written response of the Human Resources Director or his/her designee. If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this MOU, such grievance shall be submitted in writing to an Adjustment Board comprised of three (3) Union representatives, no more than two (2) of whom shall be either an employee of the County or an elected or appointed official of the Union presenting this grievance, and three (3) representatives of the County, no more than two (2) of whom shall be either an employee of the County or a member of the staff of an organization employed to represent the County in the meeting and conferring process. Where the parties agree, the Adjustment Board may be comprised of two (2) Union representatives and two (2) County representatives. The Adjustment Board shall meet within twenty (20) work days of receipt of the written request. If the County fails to meet the time limits specified in Step 4 and the grievant demands in writing that an Adjustment Board be convened, the County will convene an Adjustment Board within ten (10) work days or the grievance will move to arbitration upon demand.

This step of the grievance procedure may be waived by the written mutual agreement of the parties.

**Step 5.** If an Adjustment Board is unable to arrive at a majority decision, either the grievant (or the County, when alleging a violation of Section 26.6 below) may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the grievant and the Human Resources Director. Such request shall be submitted within twenty (20) work days of the rendering of the Adjustment Board decision. Within twenty (20) days of the request for arbitration the parties shall mutually select an arbitrator who shall render a decision within thirty (30) workdays from the date of final submission of the grievance including receipt of the court reporter's transcript and post-hearing briefs, if any. The fees and expenses of the arbitrator and of the Court Reporter shall be shared equally by the grievant and the County. Each party, however, shall bear the costs of its own presentation, including preparation and post hearing briefs, if any.

**26.2 Scope of Adjustment Board & Arbitration Decisions.**

- A. Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by law.
- B. No Adjustment Board and no arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union which has been certified as the recognized employee organization for such unit and unless such dispute falls within the definition of a grievance as set forth in Subsection 26.1 above.
- C. Proposals to add to or change this MOU or to change written agreements supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this MOU, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this Section. Neither any Adjustment Board nor any arbitrator shall have the power to amend or modify this MOU or written agreements supplementary hereto or to establish any new terms or conditions of employment.
- D. If the Human Resources Director in pursuance of the procedures outlined in Subsection 26.1, Step 3 above, or the Adjustment Board in pursuance of the provisions of Subsection 26.1, Step 4 above resolve a grievance which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time.
- E. No change in this MOU or interpretations thereof (except interpretations resulting from Adjustment Boards or arbitration proceedings hereunder) will be recognized unless agreed to by the County and the Union.

**26.3 Time Limits.** The time limits specified above may be waived by mutual agreement of the parties to the grievance. If the County fails to meet the time limits specified in Steps 1 through 3 above, the grievance will automatically move to the next step. If a grievant fails to meet the time limits specified in Steps 1 through 3 above, the grievance will be deemed to have been settled and withdrawn.

**26.4 Union Notification.** An official, with whom a formal grievance is filed by a grievant who is included in a unit represented by the Union, shall give the Union a copy of the formal presentation.

## **SECTION 26 - GRIEVANCE PROCEDURE**

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**26.5 Compensation Complaints.** All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Human Resources Director. Only complaints which allege that employees are not being compensated in accordance with the provisions of this MOU shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process, if not detailed in the MOU which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than two (2) years from the date upon which the complaint was filed.

**26.6 Strike/Work Stoppage.** During the term of this MOU, the Union, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, sickout, or refusal to perform customary duties.

In the case of a legally declared lawful strike against a private or public sector employer which has been sanctioned and approved by the labor body or council having jurisdiction, an employee who is in danger of physical harm shall not be required to cross the picket line, provided the employee advises his or her supervisor as soon as possible, and provided further that an employee may be required to cross a picket line where the performance of his or her duties is of an emergency nature and/or failure to perform such duties might cause or aggravate a danger to public health or safety.

**26.7 Merit Board.**

- A. All grievances of employees in representation units represented by the Union shall be processed under Section 26 unless the employee elects to apply to the Merit Board on matters within its jurisdiction.
- B. No action under Steps 3, 4 and 5 of Subsection 26.1 above shall be taken if action on the complaint or grievance has been taken by the Merit Board, or if the complaint or grievance is pending before the Merit Board.

**26.8 Filing by Union.** The Union may file a grievance at Step 3 on behalf of affected employees when action by the County Administrator or the Board of Supervisors violates a provision of this MOU.

**26.9 Disputes Over Existence of Grievance.** Disputes over whether a grievance exists as defined in Section 26.1 shall be resolved through the grievance procedure.

**26.10 Disqualification From Taking Examination.** If disqualified from taking an examination, an employee may utilize the appeal process specified in

the Personnel Management Regulations for employees disqualified from taking an examination.

**SECTION 27 - BILINGUAL PAY**

A salary differential of seventy dollars (\$70.00) per month shall be paid incumbents of positions requiring bilingual proficiency as designated by the appointing authority and Human Resources Director. Said differential shall be prorated for employees working less than full time. Designation of positions for which bilingual proficiency is required is the sole prerogative of the County. The Union shall be notified when such designations are made.

Effective October 1, 2000, the current program differential shall be increased to a total of seventy-five dollars (\$75.00) per month. Effective October 1, 2001, the differential shall be increased to a total of eighty dollars (\$80.00) per month.

**SECTION 28 - RETIREMENT**

**28.1 Contribution.** Pursuant to Government Code Section 31581.1, the County will continue to pay fifty percent (50%) of the retirement contributions normally required of employees. Such payments shall continue for the duration of this MOU, and shall terminate thereafter. Employees shall be responsible for payment of the employees' contribution for the retirement cost of living program as determined by the Board of Retirement of the Contra Costa County Employees' Retirement Association without the County paying any part of the employee's share. The County will pay the remaining one-half (1/2) of the retirement cost-of-living program contribution.

**28.2 Tier III.** Subject to the enactment of enabling legislation amending the 1937 Employees' Retirement Act to allow such election, the County will permit certain Tier II employees to elect a Tier III Retirement Plan under the following conditions:

- a. The County and the Labor Coalition must agree on the wording of the legislation and both parties must support the legislation.
- b. Except for disability, all benefit rights, eligibility for and amounts of all other benefit entitlements for Tier III, from and after the date of implementation, shall be the same as Tier I. The disability benefits for Tier III shall be the same as the current Tier II disability provisions.
- c. The amount of the employee's required retirement contribution shall be established by the County Employees' Retirement Association

## **SECTION 28 - RETIREMENT**

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and shall be based on the employee's age at entry into the retirement system.

- d. Employees represented by the Labor Coalition and its member employee organizations (herein referred to as 'Labor Coalition') enrolled in Tier II who have attained five (5) years of retirement credited service as of the effective date of the enabling legislation shall have a six (6) month period after such date to make a one time irrevocable election of the Tier III Retirement Plan expressed herein subject to action by the Board of Supervisors to implement the Plan. Thereafter, employees represented by the Labor Coalition enrolled in Tier II who have attained five (5) years of retirement credited service shall have a ninety (90) day period to make a one time irrevocable election of the Tier III Retirement Plan expressed herein.

The County's employer contributions and subvention of employee contributions for Labor Coalition employees electing Tier III which exceed those which would be required for Tier II membership shall:

- a. be funded by reducing the general wage increase agreed upon to be effective October 1, 1997, and the pay equity amounts attributable thereto, by a percentage sufficient to reduce the County's wage obligation by three (\$3) million dollars per year; and the general wage increase of all employees represented by the Labor Coalition shall be reduced accordingly; and
- b. in the event the County's costs attributable to the creation and operation of Tier III exceed \$3 million per year or the County Employees' Retirement Association's actuaries determine in future years that the County's retirement costs have increased and that the increase is attributable to the creation of Tier III and/or the impact of Tier III on the County's retirement costs, such increase shall be funded by reducing the general wage increase(s) agreed upon in future years, and the pay equity amounts attributable thereto, to the extent that future wage increases are granted; and the general wage increase(s) of all employees represented by the Labor Coalition shall be reduced accordingly; and
- c. in the event the County's costs attributable to the Tier III Retirement Plan are less than \$3 million per year, the difference shall be divided by twelve and each twelfth shall be augmented by an amount equal to the County's common pooled fund interest which would have accrued if one twelfth had been invested in the first month of the past year, two twelfths in the second month of the past year and so forth; and

- d. any savings to the County resulting from the creation and operation of Tier III shall be used to offset future County retirement cost increases attributable to the creation and operation of Tier III; and
- e. County savings shall be held in an account by the Auditor-Controller which is invested in the County's common pooled fund and will accrue interest accordingly. The County will report yearly to the Labor Coalition on a) the beginning account balance, b) the interest earned, c) expenditures from the account to cover increased costs resulting from the Tier III Retirement Plan, and d) the ending account balance.

Any increased costs to the County, due to Tier III participation by employees not represented by the Labor Coalition, shall not be funded by reduction of general wage increases otherwise due to the employees represented by the Labor Coalition.

Subject to the provisions expressed above, any and all additional employer and County-paid employee contributions which exceed the sum of the County's legally required contributions under Tier II shall be recovered by reducing general wage increases to the employees represented by the Labor Coalition.

Any disputes regarding cost or savings shall be subject to binding arbitration upon demand of the Labor Coalition or the County.

The enabling legislation shall provide that the Tier III Retirement Plan may be implemented only by an ordinance enacted by the Board of Supervisors.

Board of Supervisors' action to implement the Tier III Retirement Plan shall be taken not earlier than seven (7) months after the effective date of the legislation plus thirty (30) days after an actuarial report on the County cost of the Plan is received by the County, provided that before enactment of the ordinance, the Labor Coalition has not notified the County in writing that a one percent (1%) wage increase shall be implemented by the County effective October 1, 1997, without interest, in lieu of implementation of the Tier III Retirement Plan.

The establishment of the Tier III Retirement Plan pursuant to the terms of this Memorandum of Understanding shall be subject to approval by the Board of Retirement of the Contra Costa County Employees' Retirement Association.

In the event the County is prevented from implementing the Tier III Retirement Plan for any reason on or before the termination date of this MOU, the agreement of the parties regarding a Tier III Retirement Plan shall expire and a one percent (1%) lump sum wage increase shall be implemented by the County within sixty (60) days after the determination that Tier III cannot be implemented or as soon

## **SECTION 29 - REIMBURSEMENT**

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thereafter as practicable for the period covering October 1, 1997 through such termination date, without interest, in lieu of the Tier III Retirement Plan.

Effective October 1, 2002, Tier 2 of the retirement plan shall be eliminated and all employees in Tier 2 of the retirement plan shall be placed in Tier 3.

Employees in Tier 2 with ten (10) or more years of County/District service, will be eligible to participate in the County's buy back program. Employees may replace Tier 2 benefits with Tier 3 benefits as follows:

1. Employee buys back two (2) years, County will buy back one (1) year for a total of three (3) years of buyback.
2. Employee buys back four (4) years, County will buy back two (2) years for a total of six (6) years of buyback.
3. Employee buys back six (6) years, County will buy back three (3) years for a total of nine (9) years of buyback.

## **SECTION 29 - REIMBURSEMENT**

**29.1 Training Reimbursement.** The County Administrative Bulletin on Training shall govern reimbursement for training and shall limit reimbursement for career development training to six hundred fifty dollars (\$650) per year, except as otherwise provided in the supplemental sections of this MOU. Registration and tuition fees for career development education may be reimbursed for up to fifty percent (50%) of the employee's net cost. Books necessary for courses taken for career development education may be reimbursed for up to one hundred percent (100%) of the employee's net cost.

- 29.2 Personal Property Reimbursement.** The loss or damage to personal property of employees is subject to reimbursement under the following conditions:
- a. The loss or damage must result from an event which is not normally encountered or anticipated on the job and which is not subject to the control of the employee.
  - b. Ordinary wear and tear of personal property used on the job is not compensated.
  - c. Employee tools or equipment, provided without the express approval of the department head, and automobiles are excluded from reimbursement.
  - d. The loss or damage must have occurred in the line of duty.



- e. The loss or damage was not a result of negligence or lack of proper care by the employee.
- f. The personal property was necessarily worn or carried by the employee in order to adequately fulfill the duties and requirements of the job.
- g. The loss or damage to employee's eyeglasses, dentures, or other prosthetic devices did not occur simultaneously with a job connected injury covered by workers' compensation.
- h. The amount of reimbursement shall be limited to the actual cost to repair damages. Reimbursement for items damaged beyond repair shall be limited to the actual value of the item at the time of loss or damage but not more than the original cost.
- i. The burden of proof of loss rests with the employee.
- j. Claims for reimbursement must be processed in accordance with the Administrative Bulletin on Compensation for Loss or Damage to the Personal Property.

**29.3 Reimbursement for Meal Expenses.** Employees shall be reimbursed for meal expenses under the following circumstances and in the amount specified:

- a. When the employee is required to be out of his/her regular or normal work area during a meal hour because of a particular work assignment and with prior approval of the department head or his designee.
- b. When the employee is required to stay over to attend consecutive or continuing afternoon and night sessions of a board or commission.
- c. When the employee is required to incur expenses as host for official guests of the County, work as members of examining boards, official visitors, and speaker or honored guests at banquets or other official functions.
- d. When the employee is required to work three (3) or more hours of overtime; in this case he/she may be reimbursed in accordance with the Administrative Bulletin on Expense Reimbursement.

## **SECTION 30 - CLASSIFICATION**

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Meal costs will be reimbursed only when eaten away from home, or away from the facility in the case of employees at 24-hour institutions.

Procedures and definitions relative to reimbursement for meal expenses shall be in accordance with the Administrative Bulletin on Expense Reimbursement.

## **SECTION 30 - CLASSIFICATION**

Existing classes of positions may be abolished or changed and new classes may be added to the classification plan by the Human Resources Director subject to approval by the Board of Supervisors. The County will offer to meet and confer with the Union on the minimum qualifications and salary of new classes and on any proposed changes in the minimum qualifications in current classes represented by the Union.

If the County wishes to add duties to classes represented by the Union, the Union shall be notified and upon request of the Union, representatives of the County will meet and consult with the Union over such duties.

## **SECTION 31 - SAFETY**

The County shall expend every effort to see to it that the work performed under the terms and conditions of this MOU is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations. The County is aware of the U.S. Supreme Court "Whirlpool" decision regarding safe working conditions and will continue to comply with all of the provisions of that decision. The Union may recommend safety guidelines, regulations, training programs and necessary corrective actions concerning conditions associated with the work environment. Representatives of the Union may want to discuss with certain Department Heads the participation of the employees it represents on existing departmental safety committees. If a Department Head agrees, the Union may designate a representative to participate in any established Safety Committee.

An employee designated by the Union may participate on each of the established district safety committees within the Employment & Human Services Department.

**31.1 VDT Users Eye Examination.** The County agrees to provide an annual eye examination on County time at County expense provided that the employee regularly uses a video display terminal at least an average of two (2) hours per day as certified by their department.

Employees certified for examination under this program must process their request through the Employee Benefits Division of the Human Resources Department. Should prescription VDT eyeglasses be prescribed for the employee

following the examination, the County agrees to provide, at not cost, the basic coverage which includes a ten dollar (\$10) frame and single vision lenses. Employees may, through individual arrangement between the employee and their doctor and solely at the employee's expense, include bifocal, trifocal or blended lenses and other care, services or materials not covered by the Plan. The basic plan coverage, including the examination, may be credited toward the employee-enhanced benefit.

**31.2 Reopener.** At the request of the County, this section may be reopened during the term of this MOU to consider alternate programs for providing VDT users eye examinations.

### **SECTION 32 - MILEAGE**

**32.1 Mileage Reimbursement Rate.** Mileage allowance for the use of personal vehicles on County business shall be paid according to the rates allowed by the Internal Revenue Service and shall be adjusted to reflect changes in this rate on the date it becomes effective or the first of the month following announcement of the changed rate by the Internal Revenue Service, whichever is later.

**32.2 Mileage Reimbursement Policy.** Mileage from an employee's home to the normal work location is not reimbursable. The normal work location is the location to which an employee is regularly assigned. An employee with more than one (1) normal work location shall be reimbursed for the mileage traveled in the same work day between those work locations.

When an employee is temporarily reassigned to a different work location, mileage will be reimbursed in excess of the normal mileage between the employee's home and the regular work location.

### **SECTION 33 - FLEXIBLY STAFFED POSITIONS**

The County shall continue to provide for flexible staffing and departmental certification for all positions in the following classes: Data Entry Operator I to II and Deputy Clerk - Data Entry Operator I to II. If an operating department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to promote an employee on the first of the month when eligible, said appointment shall be made retroactive to the first of the month when eligible. An employee who is denied a promotion to a flexibly staffed position may appeal such denial to the Merit Board.

## **SECTION 34 - MEAL PERIODS**

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### **SECTION 34 - MEAL PERIODS**

**34.1 Varying Meal Periods.** Representatives of the Union may discuss varying meal periods (e.g. one-half (1/2) hour versus a one (1) hour meal period), with certain Department Heads. Any change in the meal period agreed to by the Union and Department Heads must have final approval from the County Administrator.

**34.2 Hospital Holiday Meals.** Employees represented by the Union who are employed at the County Hospital and who are required to work on Thanksgiving, Christmas or New Year's will be provided a free meal in the Hospital Cafeteria at no cost to the employee only between the hours of 6:30 a.m. and 6:30 p.m.

### **SECTION 35 - PERFORMANCE EVALUATION**

In those instances when there is a written performance evaluation of an employee and the employee is requested to sign the evaluation, the employee shall receive a copy of the evaluation if s/he so requests.

The County agrees to meet with representatives of AFSCME, Local 2700 to discuss performance evaluation on a County-wide basis but not a County-wide performance form.

### **SECTION 36 - DISCIPLINARY ACTIONS**

If the employee so requests in writing, a copy of any written disciplinary action affecting an employee shall be furnished to the Union.

### **SECTION 37 - PERSONNEL FILES**

Each department shall maintain only one official personnel file per employee. Employees shall have the right to inspect and review any official record(s) relating to his or her performance as an employee or to a grievance concerning the employee which is kept or maintained by the County in the employee's personnel file in the Human Resources Department. The employee's union representative, with written authorization by the employee, shall also have the right to inspect and review any official record(s) described above. The contents of such records shall be made available to the employee and/or the employee's union representative for inspection and review at reasonable intervals during the regular business hours of the County.

## **SECTION 38 - SERVICE AWARDS**

Letters of reprimand are subject to the grievance procedure but shall not be processed past Step 3 unless said letters are used in a subsequent discharge, suspension or demotion of the employee, in which case an appeal of the letters of reprimand may be considered at the same time as the appeal of the disciplinary action. Copies of written reprimands or memoranda pertaining to an employee's unsatisfactory performance which are to be placed in the employee's personnel file shall be given to the employee who shall have the right to respond in writing to said documents.

Derogatory material in an employee's personnel file (such as warning letters) over two (2) years old will not be used in a subsequent disciplinary action unless directly related to the action upon which the discipline is taken. Derogatory material does not include prior suspensions, demotions or dismissals for cause.

The County shall provide an opportunity for the employee to respond in writing to any information which is in the employee's personnel file about which he or she disagrees. Such response shall become a permanent part of the employee's personnel record. The employee shall be responsible for providing the written responses to be included as part of the employee's permanent personnel record.

This section does not apply to the records of an employee relating to the investigation of a possible criminal offense, medical records and information or letters of reference.

Employees have the right to review their official personnel files which are maintained in the Human Resources Department or by their department. In a case involving a grievance or disciplinary action, the employee's designated representative may also review his/her personnel file with specific written authorization from the employee.

## **SECTION 38 - SERVICE AWARDS**

The County shall continue its present policy with respect to service awards including time off; provided, however, that the type of award given shall be at the sole discretion of the County.

The following procedures shall apply with respect to service awards:

- a. Presentation Before the Board of Supervisors. An employee with twenty (20) or more years of service may go before the Board of Supervisors to receive his/her Service Award. When requested by a department, the Human Resources Department will make arrangements for the presentation ceremony before the Board of

## **SECTION 39 - FLEX-TIME**

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Supervisors and notify the department as to the time and date of the Board meeting.

- b. Service Award Day Off. Employees with fifteen (15) or more years of service are entitled to take a day off with pay at each five (5) year anniversary.

## **SECTION 39 - FLEX-TIME**

It is understood that Resolution No. 75/1037 pertaining to flex-time may be applied to clerical employees as well as other County employees. Nothing contained in this MOU prohibits the Department Head from implementing a flex-time system for clerical employees. The Department Head prior to implementation shall discuss the implementation of any flex-time system involving employees represented by the Union with the Union. Then the department shall determine if said flex-time is feasible following a trial period and then shall submit the plan to the County Administrator for approval. Upon written request to the Labor Relations Manager, the Union may request to meet with a Department Head for the purpose of proposing an alternate flexible work schedule.

## **SECTION 40 - DATA ON VACANT POSITIONS**

The County agrees to continue investigating the feasibility of instituting a data processing system to provide current data on available vacant positions within the clerical series.

## **SECTION 41 - COUNTY LIBRARY EMPLOYEES**

**41.1** Evening Differential. Employees employed at the County Library shall receive a five percent (5%) base pay salary differential for all scheduled hours worked between 6:00 p.m. and 9:00 p.m.

**41.2** Saturday Differential. Employees in the Library Unit who are scheduled to work Saturday shall receive a five percent (5%) base pay salary differential for all hours worked on such Saturday, said five percent (5%) differential shall not apply to any overtime hours worked on Saturday.

**41.3** Thanksgiving/Christmas Holiday. Section 12 - Holidays of this MOU regarding holidays is modified for all Library employees to delete the day after Thanksgiving as a holiday and to add the day before Christmas as a holiday. The libraries will close at 6:00 p.m. on the day before Thanksgiving.

## **SECTION 42 - UNFAIR LABOR PRACTICE**

**41.4 Adjusted Work Schedule.** The Library will adjust work schedules as long as reasonable staffing levels can be maintained for Library Clerks who are attending school to pursue a certificate in Library and Information Technology.

### **SECTION 42 - UNFAIR LABOR PRACTICE**

Either the County or the Union may file an unfair labor practice as defined in Chapter 34-22 of Board Resolution 81/1165 against the other. Allegations of an unfair labor practice, if not resolved in discussions between the parties, may be heard by a mutually agreed upon impartial third party.

### **SECTION 43 - LENGTH OF SERVICE DEFINITION (For Service Awards & Vacation Accruals)**

The length of service credits of each employee of the County shall date from the beginning of the last period of continuous County employment (including temporary, provisional, and permanent status, and absences on approved leave of absence). When an employee separates from a permanent position in good standing and within two (2) years is reemployed in a permanent County position, or is reemployed in a permanent County position from a layoff list within the period of layoff eligibility, service credits shall include all credits accumulated at time of separation, but shall not include the period of separation. The Human Resources Director shall determine these matters based on the employee status records in his/her department.

### **SECTION 44 - PERMANENT PART-TIME EMPLOYEE BENEFITS**

Permanent part-time employees receive prorated vacation and sick leave benefits. They are eligible for health, dental and life insurance benefits at corresponding premium rates providing they work at least fifty (50) percent of full time. If the employee works at least fifty (50) percent of full time, County retirement participation is also included.

### **SECTION 45 - PERMANENT-INTERMITTENT EMPLOYEE BENEFITS**

Permanent-intermittent employees are eligible for prorated vacation and sick leave benefits.

### **SECTION 46 - PERMANENT-INTERMITTENT HEALTH PLAN**

## **SECTION 46 - PERMANENT-INTERMITTENT HEALTH PLAN**

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A permanent-intermittent employee represented by the Union may participate in one of the County Group Health Plans of medical, dental and life insurance coverage wholly at the employee's expense. The County will not contribute to the employee's monthly premium. The employee will be responsible for paying the monthly premium appropriately and punctually. Failure to meet the premium deadline will mean automatic and immediate withdrawal from the County Group Health Plan and reinstatement may only be effectuated during the annual open enrollment period.

Effective one hundred and twenty (120) days after all Coalition Employee Organizations have signed their respective Letters of Understanding, the following benefit program shall be offered to permanent-intermittent employees:

- a. Program. The County shall offer CCHP Plan A-2 at the subvention rate of sixty-four percent (64%) of the cost of the premium for a single individual, to those permanent-intermittent employees who meet and maintain eligibility.
- b. Eligibility. Initial eligibility shall be achieved when an employee has worked three (3) continuous months of service at an average of fifty percent (50%) time per month. In order to maintain eligibility, a permanent-intermittent employee must remain in paid status during each successive month.
- c. Pre-Pay. Employees who have achieved eligibility under the terms of 46.2b will pre-pay the employee's portion of the premium cost so that the effective date of enrollment begins effective the first of the month of eligibility. Employees must continue to pre-pay their portion of the health insurance premium in order to continue benefits. In addition, employees who meet the eligibility requirements and who have been voluntarily paying for a county group health program shall be allowed to enroll in CCHP Plan A-2 without a waiting period.
- d. Family Coverage. Employees may elect to purchase at their own expense, family coverage, including domestic partner, and shall follow the procedures outlined in C. above for payment for this optional coverage.
- e. Implementation. There shall be a sixty (60) day Open Enrollment period with the initial date of coverage effective August 1, 2000. Subsequent Open Enrollment periods shall be for thirty (30) days and coincide with the open enrollment period for County employees beginning in 2001. Permanent-intermittent employees who are not currently eligible, but who subsequently meet the eligibility requirements, shall be notified of their eligibility and shall have thirty (30) days to decide whether or not to elect coverage under this program.



## **SECTION 47 - PROVISIONAL EMPLOYEE BENEFITS**

- f. Employees who are temporarily ineligible may purchase, at their own cost, the plan in accordance with the procedures set forth by the Contra Costa County Health Plan.

Nothing in Section 46.2 shall prevent an employee from electing health coverage under either Section 46.1 or Section 46.2

### **SECTION 47 - PROVISIONAL EMPLOYEE BENEFITS**

Provisional employees who were not permanent employees of the County immediately prior to their provisional appointment, are eligible for vacation and sick leave benefits.

Provisional employees may participate in one of the County Group Health Plans of medical, dental and life insurance coverage wholly at the employee's expense. The County will not contribute to the employee's monthly premium. The employee will be responsible for paying the monthly premium appropriately and punctually. Failure to meet the premium deadline will mean automatic and immediate withdrawal from the County Group Health Plan and reinstatement may only be effectuated during the annual open enrollment period.

### **SECTION 48 - WORD PROCESSING DIFFERENTIAL & VDT DIFFERENTIAL**

Employees in the following job classes who are receiving either a VDT or Word Processing Differential will continue to receive the differential until such time as they vacate their class:

Airport Office Assistant  
Assistant Volunteer Coordinator  
Data Control Clerk  
Medical Transcriber  
Retirement Services Counselor  
Tumor Registrar  
Workers' Comp. Claims Technician

Employees hired into the aforementioned classes after March 1, 1992 are not eligible for the VDT or Word Processing Differential.

## **SECTION 49 - HAZARD PAY & STAT-CALL**

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### **SECTION 49 - HAZARD PAY & STAT-CALL**

**49.1 Hazard Pay.** Employees who work in the following designated areas shall receive a five percent (5%) base pay salary differential for each hour worked in the hazardous area provided, however, that in the event the conditions in these areas are improved so that the hazardous conditions no longer exist such differential will no longer be applicable.

- a. Animal Services Department
- b. Reception Center of the County Hospital
- c. Mental Health Screening Unit of the Health Services Dept.
- d. Conservatorship Office in Martinez
- e. Evening Reception for the A.I.R.S. program at the Richmond Clinic
- f. Employee who accompanies medical staff into inmate areas of the County Detention Facility
- g. Employees assigned to work in the reception and transportation areas of the Martinez Detention Facility.
- h. Any other employee who the Board of Supervisors may by resolution authorize.

**49.2 Stat-Call.** A ten percent (10%) base pay salary differential shall be paid for those shifts on which employees in classifications represented by Local 2700 are specifically assigned by the administration to respond to emergency stat-calls if said employees do not qualify for other hazard assignment differential. A five percent (5%) base pay salary differential shall be paid for those shifts in which said employees are specifically assigned to respond to emergency stat-calls if said employees qualify for other hazard assignment differential, said five percent (5%) to be in addition to the hazard pay differential.

It is understood that acceptance of the assignment to stat-call is voluntary. Additionally, acceptance of the assignment to stat-call is conditional on an employee(s) having successfully completed required training. It is further understood that the above referenced salary differential is based on an employee(s) actually being assigned to stat-call.

**SECTION 50 - SHERIFF'S DEPARTMENT SHIFT & HOLIDAY  
AGREEMENT & SHIFT BIDDING POLICY**

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**SECTION 50 - SHERIFF'S DEPARTMENT SHIFT & HOLIDAY  
AGREEMENT & SHIFT BIDDING POLICY**

The agreement between the Union and the Sheriff's Department concerning shift assignments and holiday coverage in the Services Division shall remain in effect for the duration of this agreement.

Shift bidding shall be quarterly, two (2) weeks prior to each quarter (January-March; April-June; July-September; October-December). Seniority for shift bidding is based on continuous department seniority as a permanent employee within their current classification. Vacancies shall be filled by temporary employees after permanent employees have made their selection. If a temporary employee obtains permanent status, seniority shall be calculated from the first day of permanent department employment.

**SECTION 51 - STUDIES/PROJECTS/COMMITTEES**

**51.1 Minimum Qualifications.** In accordance with EEOC guidelines and requirements of Title VII of the 1964 Civil Rights Act, the County agrees to evaluate the education requirement for the class of Clerk, specifically the Experienced, Senior, and Specialist levels, to determine if a high school education should be required in the minimum qualifications. The results will be shared with Local 2700.

**51.2 Attendance Program.** There shall be convened a Labor-Management Committee to develop an attendance program for County employees.

**51.3 Bi-Weekly Pay.** The County shall present to the Labor Coalition a comprehensive proposal for replacement of the current system of monthly pay with a bi-weekly (every other week) pay system.

The Labor Coalition agrees to commence meet and confer on those elements in the proposed bi-weekly payroll system which are within the scope of bargaining and/or the impact of replacing the current monthly pay system with a bi-weekly system. Any implementation of a bi-weekly pay system must be by mutual agreement of the parties.

Meet and confer on bi-weekly pay will also include discussion on (1) the proration of vacation and sick leave accruals for permanent part-time employees and (2) discontinuing the payroll practice of applying a factor of 1.05 when computing the base pay hourly equivalent for full-time and part-time permanent employees for the purpose of compensating shift differential, hazard pay, straight-time overtime

## **SECTION 51 - STUDIES/PROJECTS/COMMITTEES**

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and straight-time holiday pay. However, these discussions will not be contingent upon any agreement reached regarding bi-weekly pay.

**51.4 Grievance Procedure.** Following completion of these negotiations, but no later than November 1, 1996, representatives of the County shall meet and confer with representatives of the Labor Coalition in order to develop rules and guidelines governing the conduct and administration of Adjustment Boards.

**51.5 Wellness Incentive Program.** A broad-based pilot Wellness Incentive Program will be developed with input from the joint Labor/Management Wellness Committee. The purpose of this program will be to reward County employees with incentives for participating in Wellness Program activities and encourage them to live healthier lifestyles. The Wellness Committee will work closely with the Human Resources Department on program design and implementation.

**Program Design.** The Wellness Incentive Program design will include the development of additional wellness activities to compliment the current Employee Wellness Program schedule and collaboration with health plan carriers to develop special programs and activities for County employees and to encourage participation in their established wellness activities. Special emphasis will be placed on supporting major programs such as: Smoking Cessation, Nutrition/Weight Loss, Brown Bag Seminars, Health Screenings and Health Fairs.

**Format.** A point value system for program participation will be developed wherein each wellness activity and program will be assigned a point value. Points will accumulate and incentive prizes will be awarded to employees upon realizing certain point levels. The value of the prizes will increase with higher point values and one (1) grand prize will be awarded each year to the employee with the highest number of points.

**Incentives.** A series of incentive prizes will be assigned to certain point values. In addition, recognition for employee and department participation will be an important aspect of the Wellness Incentive Program.

**Referral.** The parties agree to refer the contents of this proposal to the Wellness Committee for its consideration.

**51.6 Evaluations.** The Human Resources Department and County Training Institute agree to meet with County departments to review their evaluation processes and assist in the development/revision of job related criteria. The County agrees to meet with the union to review results and proposed changes to the evaluation form or processes as a result of this review. Any such changes to the evaluation form or process in a department will be by mutual agreements between the department and the union.

This process will begin no later than one hundred and twenty (120) days after the Memorandum of Understanding has been approved by the Board of Supervisors and completed by July 1, 2000, or as soon thereafter as practicable.

**51.7** **Differentials**. The County and the Labor Coalition agree to establish a Labor/Management Committee comprised of five (5) labor and five (5) management employees to study and recommend actions necessary to standardize payment and application of differentials including, but not limited to, proration for less than full-time employees; the length of payment while on paid sick leave or disability and consistency between percent-based vs. flat-payment differentials.

## **SECTION 52 - NOTARY PUBLIC**

Employees who are designated by their department to perform duties for the County as a notary public will be allowed time off (up to one hour) for testing and will be reimbursed for their application, testing and renewal fees.

## **SECTION 53 - GAINSHARING**

In the event the Employment & Human Services Department considers the introduction of a Gainsharing Program, the department agrees to include AFSCME, Local 2700 in such a program.

## **SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

**54.1** **Recognition**. AFSCME, Local 2700 is the formally recognized employee organization for temporary employees, not including emergency appointments and retiree temporary appointments, who are employed by Contra Costa County in those classifications covered by the MOU between AFSCME, Local 2700 and Contra Costa County.

- A. **Temporary Employees**. Temporary employees hired on or after January 1, 1997 may work a maximum of 1600 hours within a department. Thereafter, that temporary may not work in that department for one year as a temporary.
- B. **Appointment to a Permanent Position**. If a temporary employee is appointed to a permanent position, credited paid time off hours and earned, but not yet credited paid time off hours, shall be converted to vacation hours and subject to the MOU provisions relating to vacation, except that when a temporary employee is appointed to a

## **SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

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permanent position, the employee shall be allowed to use the earned paid time off hours during the first six (6) months of employment in a permanent position.

Upon receipt of a request by the Union, the Human Resources Department agrees to meet to discuss the issues related to continuous testing and the frequency of such testing regarding specific classifications.

Effective January 1, 2000, the County shall provide quarterly reports regarding temporary employees which include the following information: employee name, classification, department, mail drop I.D., and number of hours worked in all classifications and departments on a calendar year-to-date basis.

**54.2 Appointments Not Covered.** Emergency appointments as defined in Section 809 of the Personnel Management Regulations, and retiree temporary appointments as provided for in Government Code, Section 31680.2, are not covered by this Letter of Understanding.

### **54.3 Agency Shop.**

- A. All covered temporary employees, as specified above shall either:
1. Become and remain a member of the Union and pay an agency shop fee of one percent (1%) of their regular pay per semi-monthly pay period; this percentage may be changed by the Union who will notify the County Auditor-Controller of the new percentage and effective date; or
  2. Pay to the Union an agency shop service fee of the amount which does not exceed an amount which may be lawfully collected under applicable constitutional, statutory and case law, which under no circumstances shall exceed the amount specified in 2.2.B.2 above. It shall be the sole responsibility of the Union to determine an agency shop fee which meets the above criteria; or
  3. Do both of the following:
    - a. Execute a written declaration that the employee is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment or declare that the employee has a bona fide religious conscientious

**SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

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objection to joining or financially supporting a public employee organization; and

- b. Pay a sum equal to the agency shop service fee specified in 2.2.B.2 above to a non-religious, non-labor charitable fund chosen by the employee from those listed in the MOU between AFSCME, Local 2700 and Contra Costa County
- B. No initiation fee or special assessments shall be required of these employees.
- C. The Union shall provide the County with a copy of the Union's "Hudson Procedure" for the determination and protest of its agency shop fees. The Union shall provide a copy of said "Hudson Procedure" to every fee payor covered by this MOU within one month from the date it is approved and annually thereafter, and also as a condition to any change in the agency shop fee. Failure by a fee payor to invoke the Union's Hudson Procedure within one month after actual notice of the Hudson Procedure shall be a waiver by the employee of his/her right to contest the amount of the agency shop fee.

**54.4 Agency Shop Deductions.**

- A. A current temporary employee or a new temporary employee hired into a job class represented by Local 2700 shall be provided through the Human Resources Department with an Employee Authorization For Payroll Deduction form. Said employee shall have thirty (30) calendar days to fully execute the authorization form of his/her choice and return said form to the Human Resources Department.
- B. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this agency shop fee provision and the union dues, agency shop fee or charitable contribution required under Section 3 are not received, the Union may, in writing, direct that the County withhold the agency shop fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the agency shop fee and the County shall pay an equal amount to the Union.
- C. The Union shall indemnify, defend and save the County harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this Union

## **SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

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Security Section, or action taken or not taken by the County under this Section. This includes, but is not limited to, the County's attorney fees and costs.

- D. The authorization of payroll deductions described above shall require the employee to agree to hold the County harmless from all claims, demands, suits or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

### **54.5 Salary.**

- A. Temporary Hourly Rates. The hourly rate paid temporary employees shall be the "1.00 hourly rate" calculated on the salary schedule by dividing the unrounded monthly salary at any step by 173.33.
- B. New Employees. Except as otherwise permitted in deep class resolutions, temporary employees shall generally be appointed at the minimum step of the salary range established for the particular class to which the appointment is made. However, the Human Resources Director may authorize an appointing authority to make a particular temporary appointment at a step above the minimum of the range.

### **54.6 Salary Increments Within Range.**

- A. Increment Eligibility and Salary Review. All temporary employees shall accumulate a record of straight time hours worked for the purpose of a salary review to determine whether the employee shall be advanced to the next higher step, or other step as specified by deep class resolution, in the salary range for the classification. Advancement to a higher step shall be granted only on the affirmative recommendation of the appointing authority, based on satisfactory performance by the employee. The appointing authority may recommend granting the salary increment or unconditional denial of the increment.
- B. Frequency of Increments. Increments within range shall not be granted more frequently than once per every 2080 straight time hours worked by a temporary employee.
- C. Effective Date. Step increases resulting from an approved salary review shall be effective the first of the month following completion of 2080 straight time hours worked and return of the salary review report to the Human Resources Department.



**SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

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- D. New Employees. Temporary employees hired at Step 1 of the salary range for their classification or at Step 1 of the salary range for their assigned level in a deep class will be eligible for a salary review as described above after completion of 1040 straight time hours worked; additional salary reviews will be after the cumulation of an additional 2080 straight time hours as described above.
- E. No provision of this section shall be construed to make the granting of salary increments mandatory on the County.

**54.7 Paid Time Off.**

- A. Temporary employees shall accumulate a record of straight time hours worked.
- B. Based upon the accumulation of straight time hours recorded, effective on the payroll following the payroll on which payment was made for the 1040th straight time hour worked, the temporary employee shall be credited with twenty (20) hours of paid time off (PTO). For each additional 1040 hours of straight time worked, the temporary employee shall be credited with an additional twenty (20) hours of paid time off. Forty (40) hours paid time off credit is the maximum amount an employee may have at any time.
- C. Use. PTO shall not be taken until credited. PTO shall be taken by an employee only with the approval of his/her supervisor.
- D. Paid Off At Separation. If a temporary employee terminates his/her County employment (separates from County service), the employee shall be paid all currently credited PTO hours and, in addition, shall be paid off for that portion of PTO hours earned but not yet credited on the basis of that portion of the 2080 straight time hours worked (STHW) cumulation. The formula for the earned but not credited payoff is: STHW divided by 2080 multiplied by forty (40) multiplied by the current hourly pay rate at separation.
- E. Appointment to a Permanent Position. If a temporary employee is appointed to a permanent position, the credited PTO hours and the earned but not yet credited PTO hours, as described in above, shall be converted to vacation hours and subject to the MOU provisions relating to vacation except that when a temporary employee is appointed to a permanent position, the employee will be allowed to use the earned PTO hours during the first six (6) months of employment.

**SECTION 54 - UNION REPRESENTATION OF TEMPORARY EMPLOYEES**

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- F. Health Benefits for Temporary Employees. Effective one hundred and twenty (120) days after all Coalition Employee Organizations have signed their respective Letters of Understanding, the following benefit program shall be offered to temporary employees:
1. Program. The County shall offer CCHP Plan A-2 at the subvention rate of fifty percent (50%) of the cost of the premium for a single individual, to those temporary employees who meet and maintain eligibility.
  2. Eligibility. Initial eligibility shall be achieved when an employee has worked three (3) continuous months of service at an average of fifty percent (50%) time per month. In order to maintain eligibility, a temporary employee must remain in paid status a minimum of forty (40) hours during each successive month and maintain an average of fifty percent (50%) time year-to-date from the date of eligibility.
  3. Pre-Pay. Employees who have achieved eligibility under the terms of D.2 will pre-pay the employee's portion of the premium cost so that the effective date of enrollment begins effective the first of the month of eligibility. Employees must continue to pre-pay their portion of the health insurance premium in order to continue benefits. In addition, temporary employees who meet the eligibility requirements and who have been voluntarily paying for a County group health program shall be allowed to enroll in CCHP Plan A-2 without a waiting period.
  4. Family Coverage. Employees may elect to purchase at their own expense, family coverage, including domestic partner, and shall follow the procedures outlined in 3. above for payment for this optional coverage.
  5. Implementation. There shall be a sixty (60) day Open Enrollment period with the initial date of coverage effective August 1, 2000. Subsequent Open Enrollment periods shall be for thirty (30) days and coincide with the open enrollment period for County employees beginning in 2001. Temporary employees who are not currently eligible, but who subsequently meet the eligibility requirements, shall be notified of their eligibility and shall have thirty (30) days to decide whether or not to elect coverage under this program.

**54.8 Provisional Employees.** AFSCME, Local 2700 is the formally recognized employee organization for all provisional employees appointed by the County from "outside County service" in classifications covered by the MOU between the County and the Union. The provisional employee will continue to receive the salaries and benefits provided in the MOU for provisional employees. Provisional employees shall be covered by the agency shop provisions of the MOU applicable to permanent employees, with the exception that provisional employees shall not be required to pay any initiation fee or special assessment fee.

**54.9 Grievance Procedure.** Temporary and provisional employees covered by Section 54 may grieve only alleged violations of the specific terms and conditions specified in Section 54.

### **SECTION 55 - ADOPTION**

The provisions of this MOU shall be made applicable on the dates indicated and upon approval by the Board of Supervisors. Resolutions and Ordinances, where necessary, shall be prepared and adopted in order to implement these provisions. It is understood that where it is determined that an Ordinance is required to implement any of the foregoing provisions, said provisions shall become effective upon the first day of the month following thirty (30) days after such Ordinance is adopted.

### **SECTION 56 - DURATION OF AGREEMENT**

This Agreement shall continue in full force and effect from October 1, 1999 to and including September 30, 2005. Said Agreement shall automatically renew from year to year thereafter unless either party gives written notice to the other prior to sixty (60) days from the aforesaid termination date of its intention to amend, modify, or terminate the Agreement.

### **SECTION 57 - SCOPE OF AGREEMENT AND SEPARABILITY OF PROVISIONS**

**57.1 Scope of Agreement.** Except as otherwise specifically provided herein, this MOU fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Neither party shall, during the term of this MOU demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of this MOU by mutual agreement.

**SECTION 58 - PAST PRACTICES & EXISTING MOU'S**

The Union understands and agrees that the County is not obligated to meet and confer regarding wages, hours or conditions of employment during the term of this extended agreement, except as otherwise required by law.

**57.2 Separability of Provisions.** Should any section, clause or provision of this MOU be declared illegal, unlawful or unenforceable, by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this MOU.

**57.3 Personnel Management Regulations.** Where a specific provision contained in a section of this MOU conflicts with a specific provision contained in a section of the Personnel Management Regulations, the provision of this MOU shall prevail. It is recognized, however, that certain provisions of the Personnel Management Regulations may be supplementary to the provisions of this MOU or deal with matters not within the scope of representation and as such remain in full force and effect.

**SECTION 58 - PAST PRACTICES & EXISTING MOU'S**

Continuance of working conditions and past practices not specifically authorized by ordinance or by resolution of the Board of Supervisors is not guaranteed by this MOU; provided, however, that only during the term of this MOU which expires September 30, 2005, the Union may claim a violation of a past practice. If the Union can demonstrate that such past practice exists by virtue of having been acknowledged and agreed to by Management and representatives of the Union or by employees represented by the Union who reach agreement with a Department Head on a specific policy covering a group of employees such as a reassignment policy, the alleged violation of said past practice will be subject to the grievance procedure. Those practices which have been agreed to by Management and not approved by the Department Head must be confirmed and approved by the Department Head within six (6) months from the below execution date of this MOU in order to be considered a past practice pursuant to this provision.

DATE: \_\_\_\_\_

CONTRA COSTA COUNTY      AFSCME, LOCAL 2700

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**SECTION 58 - PAST PRACTICES & EXISTING MOU'S**

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