

***MEMORANDUM  
OF  
UNDERSTANDING***

*Between*

***County of Monterey***

*And*

***MONTEREY COUNTY  
PROBATION ASSOCIATION  
(MCPA)  
Units M & N***

**July 1, 2006 through June 30, 2010**



The following resources for answers to employment related questions are available at <http://www.co.monterey.ca.us/personnel>:

- Personnel Policies And Practices Resolution No. 98-394 (PPPR)
- Administrative Procedures
- Salary Schedule
- Benefits Summary Sheets
- Current Memorandum of Understanding (MOU) and Side letters
- Health Insurance Links
- Monterey County Human Resources Division, 168 W. Alisal St., 3<sup>rd</sup> floor, Salinas, CA 93901
- Monterey County Job Hotline (831) 755-5126 or (831) 647-7726

# TABLE OF CONTENTS

PREAMBLE	.....	8
ARTICLE 1	RECOGNITION .....	9
1.1	Sole and Exclusive Agent .....	9
1.2	Relationship Affirmation .....	9
ARTICLE 2	TERM .....	10
ARTICLE 3	NON DISCRIMINATION.....	10
ARTICLE 4	ASSOCIATION RIGHTS .....	11
4.1	Representation.....	11
4.2	Association Official Representatives.....	11
4.3	Association Access .....	11
4.4	Dues Deduction.....	11
4.4.1	Agency Shop Deductions.....	12
4.4.2	Service Fee as Condition of Employment .....	12
4.4.3	Forfeiture of Deductions .....	12
4.4.4	Financial Documentation .....	12
4.4.5	Petition, Election and Challenge.....	12
4.4.6	Hold Harmless .....	13
4.4.7	Enforcement/Severability .....	13
4.5	Department Meetings.....	13
4.6	Bulletin Board.....	13
ARTICLE 5	COMPENSATION .....	14
5.1	Compensation .....	14
5.2	Education Incentive .....	14
5.3	Deferred Compensation .....	15
5.4	Mileage Allowance .....	15
5.5	No Pyramiding.....	15
5.6	Overtime .....	15
5.7	Supplemental Law Enforcement Services - Officer Compensation .....	16
ARTICLE 6	RETIREMENT .....	17

ARTICLE 7	SPECIAL PAY PRACTICES.....	18
7.1	Shift Differential .....	18
7.2	Standby .....	18
7.3	Call-Back .....	18
7.4	Bilingual Skill Pay .....	18
	7.4.1 Qualifications.....	18
	7.4.2 Bilingual Pay.....	19
7.5	Show Up Time .....	19
7.6	Y-Rate Procedure.....	19
7.7	Salary on Reassignment of Bargaining Unit Employee .....	20
ARTICLE 8	CLASSIFICATION PLAN MAINTENANCE .....	21
8.1	Classification Study Requests.....	21
8.2	Working Out of Class Pay .....	21
ARTICLE 9	PROBATIONARY PERIOD.....	22
9.1	Term of Probationary Period .....	22
9.2	Employees Terminated During Probation in a Promotional Class .....	22
ARTICLE 10	SHIFT PREFERENCE .....	23
ARTICLE 11	HOLIDAYS .....	24
ARTICLE 12	VACATION.....	25
ARTICLE 13	LEAVE PROVISIONS.....	26
13.1	Jury Duty.....	26
13.2	Supervisory Employees Leave.....	26
13.3	Sick Leave.....	26
	13.3.1 Accrual Rate.....	26
	13.3.2 Administration of Sick Leave .....	27
	13.3.3 Verification of Sick Leave .....	27
	13.3.4 Retirement Payoff.....	27
	13.3.5 Family Sick Leave .....	27
	13.3.6 Bereavement Leave.....	28
	13.3.7 Parental Leave.....	28
	13.3.8 Involuntary Leave with Pay .....	28
ARTICLE 14	BENEFIT PROGRAMS .....	29
14.1	INSURANCE.....	29

14.1.1	Medical Insurance.....	29
14.1.2	Flexible Benefits Plan.....	29
	Additional Payroll Deduction.....	30
	Unit M: In-Lieu Payout.....	30
	Unit N: In-Lieu Payout.....	30
	Flexible Benefits Plan Administration.....	30
	County Non-Elective Contributions.....	30
	Health Insurance Contribution.....	30
	Dental Insurance Contribution:.....	31
	Vision Insurance Contribution:.....	31
	County Elective Contributions.....	31
14.1.3	Alternative Benefit Option.....	32
14.2	Life.....	32
14.3	All Insurance.....	33
14.4	Health Insurance Review Committee.....	33
14.5	Conditional Re-opener.....	33
14.6	Physical Examinations.....	33
14.7	Disability Leave of Absence.....	33
14.8	Long Term Disability Insurance.....	34
14.9	State Disability Income Protection Plan.....	34
ARTICLE 15	TRANSFER POLICY.....	35
ARTICLE 16	DISCIPLINE.....	36
16.1	Disciplinary Actions.....	36
16.2	Notice of Proposed Disciplinary Action.....	36
16.3	Employee Response to Proposed Disciplinary Action.....	36
16.4	Notice of Disciplinary Action.....	37
16.5	Written Reprimand.....	37
16.6	Disciplinary Review.....	37
16.7	Involuntary Leave Without Pay.....	38
16.9	Reduction in Salary.....	38
16.10	Disciplinary Demotion.....	38
16.11	Dismissal.....	38
16.12	Absence Without Leave Separation.....	38

16.13	Statute of Limitations.....	39
16.14	Appeals from Disciplinary Action.....	39
ARTICLE 17	GRIEVANCE PROCEDURE.....	42
17.1	Grievance Defined .....	42
17.2	Limited Grievance Procedure Application .....	42
17.3	No Discrimination.....	42
17.4	Time Limits.....	42
17.5	Grievance Procedure Steps .....	43
	Step 1 Discussion with Immediate Supervisor .....	43
	Step 2 Formal Written Grievance .....	43
	Step 3 Deputy CAO - Human Resources/Mediation .....	44
	Step 4 Arbitration.....	44
17.6	Notice of Meetings.....	45
17.7	Representation.....	45
17.8	Grievance Withdrawal .....	45
17.9	Grievance Resolution.....	45
17.10	Consolidation .....	46
17.11	Processing Grievances .....	46
ARTICLE 18	LAYOFF PROCEDURE .....	47
18.1	Policy .....	47
18.2	Procedure .....	47
	18.2.1 Rank in Class Defined .....	47
	18.2.2 Order of Layoff, Exception to Ranking Sequence.....	47
	18.2.3 Ranking in Previous Class .....	48
	18.2.4 Demotion in Lieu of Layoff.....	48
18.3	Notice .....	48
18.4	Reemployment of Employees Laid Off.....	48
18.5	Status of Employees Re-employed From a Preferred Eligible List.....	49
18.6	Restoration of Benefit for Recalled Employees.....	49
18.7	Insurance Coverage.....	50
18.8	Appeal Procedure.....	50

ARTICLE 19	USE OF VOLUNTEERS.....	51
ARTICLE 20	HEALTH AND SAFETY.....	51
20.1	Work Environment.....	51
20.2	Health and Safety Committee.....	51
ARTICLE 21	COUNTY MAIL SYSTEMS.....	51
ARTICLE 22	VOLUNTARY FITNESS INCENTIVE PROGRAM.....	51
ARTICLE 23	POLYGRAPH EXAMS.....	52
ARTICLE 24	PERSONAL PROPERTY REIMBURSEMENT .....	52
24.1	General Provisions.....	52
24.2	Claims for Reimbursement.....	52
24.3	Exclusion from Reimbursement .....	52
24.4	Maximum Reimbursement.....	52
24.5	Minimum Claim.....	53
24.6	Uniform Exclusion.....	53
ARTICLE 25	PERSONNEL RECORDS .....	53
ARTICLE 26	REST PERIODS .....	53
ARTICLE 27	PROFESSIONAL MEMBERSHIP .....	53
ARTICLE 28	PERFORMANCE EVALUATIONS.....	53
ARTICLE 29	SEPARABILITY .....	55
ARTICLE 30	COUNTY RIGHTS .....	55
ARTICLE 31	CONCERTED ACTIVITIES.....	56
ARTICLE 32	EMERGENCY AUTHORITY .....	56
ARTICLE 33	FULL UNDERSTANDING, MODIFICATION, WAIVER .....	56

**PREAMBLE**

This Agreement is made and entered into between the County of Monterey (herein called the "County"), and the Monterey County Probation Association ("MCPA"), represented by the California Organization of Police and Sheriffs (herein called the "Association").

<b>ARTICLE 1 RECOGNITION</b>
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**1.1 Sole and Exclusive Agent**

The County recognizes the Association as the sole and exclusive bargaining agent for all employees in classifications of:

- Deputy Probation Officer I/II/III
- Juvenile Institution Supervisor
- Senior Juvenile Institution Officer
- Juvenile Institution Officer I/II

**1.2 Relationship Affirmation**

The Association recognizes its obligation to cooperate with the County to assure maximum service of the highest quality and efficiency to the citizens of Monterey County, consonant with its obligations to the workers it represents. The County and the Association agree that each employee shall be treated equally, fairly, and with dignity and respect.

This Section shall not be subject to the grievance procedure.

**ARTICLE 2  
TERM**

The term of this Memorandum of Understanding is from July 1, 2006 through June 30, 2010 when said Memorandum shall expire with the terms and conditions to remain in effect until a successor agreement has been ratified.

**ARTICLE 3  
NON DISCRIMINATION**

The provisions of this Memorandum of Understanding shall be applied equally to all employees covered hereby without discrimination because of race, color, sex, sexual orientation, marital status, disability, age, national origin, religious affiliation, political belief or Association membership.

Employees may elect to exercise their right to join and participate in the activities of the Association for the purposes of representation in all matters of their working conditions and employer-employee relations. The parties agree that there shall be no restraint, coercion, or interference with any employee with respect to or because of the employee's membership in said Association. The County and the Association agree that each employee shall be treated equally, fairly and with dignity and respect.

The Association and the County agree to support the Equal Opportunity Program established by the County and that there shall be no discrimination within their respective organizations because of race, color, sex, sexual orientation, marital status, disability, age, national origin, religious affiliation or political belief.

Any party alleging a violation of this article shall have the burden of proving the existence of a discriminatory act or acts and or proving that, but for such act or acts, the alleged injury or damage to the grievant would not have occurred.

Complaints based on race, color, sex, sexual orientation, marital status, disability, age, national origin, religious affiliation or political belief shall not be subject to the grievance or arbitration provisions of this agreement. Such complaints shall be processed utilizing the discrimination complaint procedure adopted by the Board of Supervisors. Discrimination complaints based on Association membership and/or activity shall continue to be subject to the grievance procedure and arbitration.

<b>ARTICLE 4 ASSOCIATION RIGHTS</b>
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**4.1 Representation**

The Association has the right to represent employees in the representation unit as specified by state law and pursuant to the County Employer-Employee Relations Resolution. The Association will notify the County and maintain such notice during the term of this Agreement of its elected officers and directors as well as its staff employees. The Association President and Vice President are authorized to act as official representatives.

Official representatives shall represent the Association in jointly scheduled meetings with the County to address matters of mutual concern.

In addition, up to two (2) additional employees directly affected by the matters under consideration may participate in these joint scheduled meetings.

**4.2 Association Official Representatives**

Association official representatives (MCPA Board members) who are County employees may utilize time during normal working hours for meeting and conferring and other association related business, with authorized representatives of the County subject to advanced scheduling. However, no more than two (2) Association representatives may assist in the investigation or processing of a grievance at a given time. Before performing grievance and disciplinary appeal work, the Association representative will obtain the verbal permission of his/her supervisor and shall report back to his/her supervisor when the grievance or disciplinary work is completed.

Representatives shall not receive overtime for time spent performing a function of an Association representative.

The Association agrees that the issues which give rise to a proposed disciplinary action are confidential in nature and will not be discussed with others who do not have a direct need to know the details of a proposed discipline.

**4.3 Association Access**

Authorized Association staff representatives shall have reasonable access to work locations for the purpose of transmitting information or representation purposes. Authorized Association representatives desiring access shall first request permission from the appropriate management representative. The authorized representative shall inform the management representative of the purpose of the visit.

**4.4 Dues Deduction**

The Association shall submit the form and amount of dues deduction to the Auditor's office for processing, which will occur as soon as reasonably possible after receipt of said forms. The County agrees to deduct, as a single deduction, dues for employees in the unit and such other deductions as authorized in writing by the individual employees concerned. The County agrees to provide the Association the name, department, job class, and deduction status of all unit employees on a monthly basis.

#### **4.4.1 Agency Shop Deductions**

All employees in the unit who have not authorized Association dues deduction shall within the thirty (30) day period following notification of their obligation under this agreement execute an authorization for the payroll deduction of one of the following: 1) Association dues; 2) a service fee equal to the percentage of the regular dues that is used for legally permissible representation costs; 3) if he/she qualifies, a charity fee equal to the service fee to a tax-exempt charitable organization that has been agreed to.

To qualify for the designated charity fee deduction, an employee must certify to the Association that he/she is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations.

Such exempt unit employees will be required to submit to the Association a notarized letter certifying that person's membership in such a religion, body or sect, signed by an official of the bona fide religion, body or sect. If an employee fails to authorize one of the above deductions within the thirty (30) day authorization period, the County shall notify the employee in writing of his/her contractual obligation to authorize one of the payroll deductions.

If an employee fails to authorize one of the deductions, the Association may seek enforcement through the courts.

#### **4.4.2 Service Fee as Condition of Employment**

All employees hired into the unit who fail to authorize an Association Dues deduction or service fee deduction must, as a condition of their continued employment, authorize a service fee deduction within thirty (30) days following the beginning of their employment. The employee may avail him/her self of the options set forth in 4.4.1 above. If an employee fails to meet this obligation the Association will make a written request to the County to take the necessary steps to separate that employee from County service. The County will inform the Association of all new hires.

#### **4.4.3 Forfeiture of Deductions**

If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by this article, no such deduction shall be made for that period.

#### **4.4.4 Financial Documentation**

1. The Association shall present documentation to the County of the legally permissible costs that may be charged as a service fee to a nonmember.
2. The Association shall, within ninety (90) days after the end of each fiscal year, make available to the County financial documentation, which shall meet the requirements of Government Code Section 3502.2.
3. The County agrees to provide the Association the name, department, class, and payroll deduction status of all unit employees on a monthly basis.

#### **4.4.5 Petition, Election and Challenge**

1. If a petition is filed with the County which requests an election rescinding agency shop and such petition contains signatures collected within a forty-five (45) day

period, of at least thirty percent (30%) of the employees in the bargaining unit, an election will be held. Such election may be held only once during the term of this Agreement. State Conciliation Service shall conduct the verification of the petition and the election. Voting shall be by secret ballot, and a majority of all employees in the bargaining unit shall be required to rescind agency shop.

2. A unit employee who is subject to the payment of a representation service fee hereunder has certain legal rights to object to that part of the fee payable by him or her which represents the employee's additional pro rata share of the expenditures by the Association that is utilized for expenditures not incurred for the purpose of performing the duties incident to effective representation in employer-employee relations. An employee wishing to exercise these rights must contact the Association office at 980 El Camino Real, Suite 300, Santa Clara, California 95050.

#### **4.4.6 Hold Harmless**

The Association agrees to indemnify and defend the County and its officers, employees and agents against all claims, proceedings and liability arising, directly or indirectly, out of any actions taken or not taken by or on behalf of the County under this article.

#### **4.4.7 Enforcement/Severability**

In the event that the service fee provisions of Article 4 are declared by a court of competent jurisdiction to be illegal or unenforceable, the parties agree to reopen this article of this agreement for the purposes of implementing Modified Agency Shop provisions.

#### **4.5 Department Meetings**

Upon agreement regarding an agenda, the Association and Department representatives may meet as often as mutually agreed upon to discuss issues of mutual concern. This article is not subject to the grievance procedure.

#### **4.6 Bulletin Board**

It is agreed the Association may post bulletin boards for the purpose of communicating with their members. The Department shall approve the size and location of the bulletin boards. Such bulletin board space shall be used only for the following subjects:

- Association recreational, social, and related news bulletins;
- Scheduled Association meetings;
- Information concerning Association elections or the results thereof;
- Reports of official business of Association including reports of committees or the Board of Directors; and
- All material shall clearly state that it is prepared and authorized by the Association.

The Association agrees that notices posted on County bulletin boards shall not contain anything that may reasonably be construed as maligning the County or its representatives.

<b>ARTICLE 5 COMPENSATION</b>
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**5.1 Compensation**

Members of Units M & N shall receive the following, effective the dates indicated.

**Year 1 (July 1, 2006 to June 30, 2007) - First full pay period in July 2006:**

Unit M & N shall receive a general across-the-board wage adjustment of 2.2%.

In any year of this contract, if the Deputy Sheriff's Association (Units A, B and C) receive an across-the-board increase to the salary schedule greater than that provided by this agreement, members of these bargaining units M & N will receive the difference on the effective date of the DSA increase.

*First full pay period in January 2007:*

Members of Units M & N shall receive an additional 1.5% increase to base salary effective the first full pay period in January 2007 in consideration for foregoing the binding arbitration for advisory arbitration as described herein.

Members of Units M & N shall receive a 7<sup>th</sup> Step (5%) added to the salary schedule, effective the first full pay period in January 2007.

Juvenile Institutional staff shall receive a \$100 annual allowance to be paid upon submission of receipts for equipment or other job related items. A winter coat shall be provided to M&N Institutional Staff upon request no more often than once every three (3) years.

**Year 2 (July 1, 2007 to June 30, 2008):**

Members of Units M & N shall receive a general across-the-board wage adjustment of 3%.

Members of Units M & N shall receive an addition 1.5% increase to base salary effective the first full pay period in July 2007 in consideration for foregoing the binding arbitration provisions for advisory arbitration.

**Year 3 (July 1, 2008 to June 30, 2009):**

Members of Units M & N shall receive a general across-the-board wage adjustment of 3%.

**Year 4 (July 1, 2009 to June 30, 2010):**

Members of Unit M & N shall receive a general across-the-board wage adjustment of 3%.

**5.2 Education Incentive**

Effective September 30, 2006, members of Units M & N who possess a four-year (or equivalent) Bachelor of Arts or Science Degree (BA/BS) shall receive a stipend of 5% of base pay.

### **5.3 Deferred Compensation**

The deferred compensation program shall continue to be made available to permanent employees in the Unit.

### **5.4 Mileage Allowance**

A unit employee who is required to operate his or her own or a privately-owned automobile for the execution of official duties, shall be allowed, reimbursed, and paid the IRS rate for each mile necessarily traveled each month.

No claim for mileage allowance shall be allowed by the Auditor-Controller unless and until it is accompanied by such report and form as may be required by the County Administrative Officer.

### **5.5 No Pyramiding**

At no time during the term of this contract will there be any duplication or pyramiding of benefits.

### **5.6 Overtime**

If in the judgment of an appointing authority, extra hours are required to be worked by an employee for the accomplishment of County business, the Appointing Authority may authorize and require the performance of said extra hours.

Overtime shall be defined as time actually worked in excess of forty (40) hours in a workweek for all members of Units M & N who are classified as non-exempt in accordance with the provisions of the FLSA.

The Probation Department Safety employees shall work schedules under exemptions allowed by the Fair Labor Standards Act.

For the purposes of this section, paid hours associated with a County holiday (whether actually worked or not), vacation and compensatory time off shall be considered as hours worked for the purpose of determining overtime. An individual employee's work schedule shall not be altered for the purpose of eliminating overtime compensation equal to that earned as a result of the employee using approved vacation or compensatory time off hours.

An Appointing Authority requiring extra hours to be worked by an employee may, within the same work week, for departments for which overtime is defined as time actually worked in excess of forty (40) hours in a work week, or within the same pay period for departments for which overtime is defined as time actually worked in excess of eighty (80) hours in a pay period, and with no less than thirty (30) hours notice to the employee require the employee to use unpaid compensatory time off equal to the extra hours worked.

**5.6.1** All County job classes shall be designated as either 1) overtime eligible, or 2) overtime exempt. Each of the above categories shall be assigned a special code that shall appear beside each class as listed in the County salary resolution.

**5.6.2** Except as otherwise provided herein, employees in overtime eligible classes shall be compensated for overtime authorized by their Appointing Authority by either 1) compensatory time off at the rate of one and one-half (1-1/2) hours credit for each hour of

overtime or, 2) in cash at the rate of one and one-half (1-1/2) times the employee's base rate of pay.

For all unit job classes that are overtime eligible:

1. The Appointing Authority shall determine the method of compensation after consulting the affected employee as long as the employee's compensatory time off accrual balance is no more than forty (40) hours.
2. If an employee has a compensatory time off accrual balance of at least forty (40) hours but no more than eighty (80) hours, the employee shall have the choice of compensation for overtime by either compensatory time off or cash.
3. An employee shall not be allowed to accumulate more than eighty (80) hours of compensatory time off above which maximum all overtime compensation shall be paid in cash.

Credit for compensatory time off shall be reported on payroll sheets submitted to the Auditor-Controller each pay period, and a balance shall be kept on the employee's check stub. The appointing authority shall administer the use of compensatory time off.

### **5.7 Supplemental Law Enforcement Services - Officer Compensation**

All hours worked in the performance of "Supplemental Law Enforcement Services" will be compensated as straight-time (including shift differential for hours outside of 08:00 to 17:00) or overtime, as applicable, if so billed to the client.

**ARTICLE 6**  
**RETIREMENT**

The members of Units M & N are covered by the 3@50 formula for CalPERS retirement. The County shall make a 7% contribution toward the employee's share of their PERS retirement contribution. All employees with 3@50 retirement shall have their salary reduced by two percent (2%) and the County shall pay the full nine percent (9%) of the unit members' contribution to PERS.

Effective July 1, 2008, the County shall implement the provisions of the IRC 414(h)(2). Upon implementation of the IRC 414(h)(2) provisions, the employees of these Units M & N shall pay their own 9% PERS contribution and base salaries in effect on June 30, 2008 shall be increased by seven percent (7%) effective the first full pay period in July, 2008.

Members of these Units M & N are also entitled to 1959 Survivor's Benefits Level 4 program.

**ARTICLE 7**  
**SPECIAL PAY PRACTICES**

**7.1 Shift Differential**

Effective September 30, 2006 unit employees who are assigned to and work six (6) hours or more between 2:00 P.M. and 8:00 A.M. shall be eligible for shift differential pay at the rate of Two Dollars (\$2.00) per hour for actual hours worked.

An employee who is called back to work a partial shift for an employee who is regularly assigned to a shift which is eligible for shift differential pay shall be eligible for shift differential pay for hours worked between five (5) P.M. and eight (8) A.M.

An employee interested in a change of shift assignment may file a written request for said change with the department. When making shift assignments, management's primary considerations shall be employee written requests and length of service with the department. If management determines that special skills and/or experience are required, said needs will be made known to the employees in the affected classes within the department and these shifts will be assigned based on the request(s) and/or length of service of those employees who meet the special skill and/or experience requirement.

Determination of need and assessment of special skills will be at the sole discretion of the department.

**7.2 Standby**

An appointing authority, after receiving written approval from the County Administrative Officer, may place employees on standby duty. Standby duty refers to a situation where an off duty employee holds him or herself available for immediate response as directed by management.

No employee shall be paid for standby duty time and other compensable duty time simultaneously.

Employees placed on standby duty shall be paid Two Dollars Fifty-Five Cents (\$2.55) per hour while on standby duty. Holidays shall be compensable for standby duty.

**7.3 Call-Back**

In those situations where an employee who is not on standby duty or otherwise being compensated and who, following the completion of his/her work day and departure from his/her place of employment, is unexpectedly called back and must report to a work site in response to a directive from management because of unanticipated work requirements, that employee shall be credited with a minimum of two (2) hours of work for each call back.

**7.4 Bilingual Skill Pay**

**7.4.1 Qualifications**

Ability to qualify for certification of demonstrated proficiency in the required language shall be a requirement for employment in a bilingual position, and obtaining certification

appropriate for the position within the initial thirty (30) days of employment shall be a condition of continued employment.

An employee who has received certification of proficiency appropriate for one position may be required to meet new proficiency requirements if he/she moves to a bilingual designated position that utilizes a different specialized or technical vocabulary. An employee certified as proficient shall be required to obtain renewal of his/her proficiency certification every five (5) years.

#### **7.4.2 Bilingual Pay**

Effective September 30, 2006, members of Units M & N who are currently qualified and receiving bilingual pay at the previously designated "Primary" or "Provisional" level (as defined in the previous contract) shall receive a stipend equal to 4% of base salary for fluency effective September 30, 2006. These members shall be considered "grandfathered" into the bilingual program as first defined in this contract (07-01-06 through 06-30-10).

Unit members who, subsequent to September 30, 2006, successfully test for fluency and are deemed qualified as a result shall receive a stipend of 4% of base salary effective the first full pay period following certification.

Effective with the first full pay period in July 2007, a bilingual "conversational" program shall be established. Members of Units M & N who successfully test at the conversational level shall receive a stipend equal to 2% of base salary. In order to qualify for the "conversational" bilingual program, employees shall pass a verbal proficiency test (administered by the Department or its designee) equal to that used to test verbal fluency in the 4% program.

Bilingual pay shall be paid to an employee occupying a designated bilingual position who has certification of proficiency in the required language as appropriate for the position starting with the first full pay period following certification.

Administration responsibilities shall include a periodic review of the number and location of bilingual position designations. The Department retains the right to limit participation in the bilingual program.

#### **7.5 Show Up Time**

If a permanent full-time employee reports to work for their regularly scheduled shift and is not permitted to work because of circumstances within the control of the County, that employee shall be entitled to two (2) hours of pay.

#### **7.6 Y-Rate Procedure**

"Y-rating" is a procedure whereby an employee who is reclassified to a class having a lower salary range than his/her current class may retain his/her current salary after the reclassification to the lower class. The employee's salary at the time of the Y-rate shall not increase until such time as the maximum salary of the class to which the employee was reclassified exceeds the employee's salary.

When an employee's current rate of pay falls between the step authorized for the lower paid class, he or she shall continue to receive the current rate of pay until such time as an authorized increase in pay or step increase can be granted which places the employee at a

step in the range without increasing his/her salary by an amount more than that normally provided by the salary increase or step advancement.

The salary on Y-rate shall be only the rate of pay in effect for the employee's class and step on the day prior to the effective date of the Y-rate action, as shown in appendices A and B of the Salary and Benefits Resolution.

Bilingual, float and charge pay differentials shall not be added to the Y-rate.

The Deputy CAO - Human Resources shall have the sole authority to approve or deny a Y-rate for an employee who is reclassified to a lower class.

A permanent employee with over one (1) year of continuous service and who is not on probation in a class at the time of his/her reclassification to a lower class, who is denied the application of a Y-rate by the Deputy CAO - Human Resources, may appeal such denial to a joint committee consisting of a designee of the Deputy CAO - Human Resources, a representative chosen by the Association and a third party chosen by the first two appointees. All other employees not Y-rated shall have no appeal. Y-rating is not subject to the grievance procedure.

#### **7.7 Salary on Reassignment of Bargaining Unit Employee**

If a bargaining unit employee voluntarily accepts reassignment to another County position of equal or lower pay for which he/she meets the minimum qualifications, and such reassignment is deemed by the County Administrative Officer to be in the best interest of the County, salary and benefit placement will be made in accordance with the County's regular Y-Rating procedures.

## ARTICLE 8

### CLASSIFICATION PLAN MAINTENANCE

#### 8.1 Classification Study Requests

In response to a written request from the Association for a reclassification study on a form prescribed by the Human Resources Division, the Human Resources Division shall acknowledge receipt of said request, and if a study is justified, indicate the target date for completion of the study, within thirty (30) calendar days of receipt of said request.

If the request for a study is denied or if the results of a completed study are not satisfactory to the Association, the Association may file a written appeal of the denial or the results with the assigned personnel analyst. The personnel analyst must receive written appeals within ten (10) working days of receipt of the denial or results of the study.

If the denial or results of a study are not satisfactorily resolved with the analyst, the Association may appeal in writing to the Deputy CAO - Human Resources indicating the specific justification for appeal. The Deputy CAO – Human Resources must receive written appeals within ten (10) working days of the Association's receipt of a response at the previous level. The decision of the Deputy CAO - Human Resources shall be final.

The Deputy CAO - Human Resources or his/her designee will periodically review the status of pending classification studies requests with a staff member of the Association. This review will be scheduled to allow at least two (2) weeks between the time of review and the time of any action by the Board of Supervisors.

The provisions of this section shall not be subject to the grievance procedure article of this Agreement.

#### 8.2 Working Out of Class Pay

In order for an employee to receive working out of class pay all of the following criteria must be met:

1. The employee must be assigned to a higher classification whose salary range is at least five percent (5%) higher than the range of the employee's regular classification.
2. The assignment must be to a vacant permanent position or to a permanent position whose incumbent is absent from work.
3. The assignment must be for over twenty (20) consecutive working days.
4. The employee must perform all of the duties of the higher classification.

For working out of class the employee shall be compensated at the step in the higher classification that provides an increase to the assigned employee of at least five percent (5%). Such compensation shall begin on the twenty-first (21st) working day after the assignment to the higher classification.

<b>ARTICLE 9</b> <b>PROBATIONARY PERIOD</b>
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**9.1 Term of Probationary Period**

Upon each appointment to a permanent position, an employee, except as outlined below, shall serve a probationary period of nine (9) months dating from the date of his/her appointment. During the probation period, an employee has no right to appeal and serves at the pleasure of the appointing authority.

Prior to the conclusion of the nine (9) month probationary period and with approval of the County Administrative Office, the appointing authority may, for cause, extend the probationary period upon furnishing the employee with a statement of the reasons for such extension and the standards that must be met in order for the employee to successfully complete the probationary period.

During the nine (9) month probationary period, a minimum of two (2) performance evaluations shall be completed no later than four (4) and eight (8) months after the initial appointment date.

An employee who has successfully completed the probationary period will be eligible for advancement to the next higher step in a salary range upon completion of one (1) year of continuous service in his/her class. If the County Administrator determines that due to an administrative or clerical error or omission an employee failed to complete probation or to receive a step advancement on the date on which he/she was otherwise eligible, the employee shall be removed from probation or advanced one step effective on the date he/she became eligible.

**9.2 Employees Terminated During Probation in a Promotional Class**

The parties reaffirm their understanding that an employee who has been promoted and thereafter released from probation (not related to a disciplinary action) enjoys no procedural or substantive rights. However, to lessen the impact of a probationary release and so that the skills of the employee may be retained, the employee will be returned to their former class.

No action taken by the County concerning an employee released while serving a probationary period shall be subject to appeal, review, or to any grievance procedure or arbitration procedure whether such procedure be contained in this Memorandum of Understanding, the Personnel Policies and Practices Resolution of the County of Monterey, the Employee Relations Resolution of the County of Monterey, or any other statute, ordinance, resolution or agreement.

This article shall not impair the liberty interest rights of any employee.

**ARTICLE 10**  
**SHIFT PREFERENCE**

Institutional staff (JIO I/II/III, and JIS) will choose their days off and hours of work every six months in January and July, pursuant to seniority. Seniority is determined by time in classification. The department retains the right to assign area and unit locations of employees in this unit.

<b>ARTICLE 11</b> <b>HOLIDAYS</b>
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The following listed days shall be observed during the term of this Memorandum as legal holidays:

January 1	New Year's Day
Third Monday in January	Martin Luther King Jr.'s Birthday
Third Monday in February	President's Day
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
November 11	Veterans Day
Fourth Thursday in November	Thanksgiving
Fourth Friday in November	Day After Thanksgiving
December 24 *	Christmas Eve
December 25	Christmas

If any of the above listed holidays falls on a Saturday, the preceding Friday shall be the holiday in lieu of the day observed. If one of the above listed holidays falls on a Sunday, the following Monday shall be the holiday in lieu of the day observed. \* Christmas Eve shall be observed as a holiday only on those days when an employee would normally not be scheduled to be off. For example, an employee working a Monday through Friday schedule would observe Christmas Eve as a holiday when December 24th actually falls on a Monday, Tuesday, Wednesday or Thursday. All employees shall receive an equal number of holidays.

All employees, except as provided below, who work on a holiday shall be entitled to compensatory time off (CTO) on an hour-for-hour basis for up to eight (8) hours of such work on a holiday, unless the employee is paid for the holiday in cash, in which case no compensatory time off shall be granted. Overtime eligible employees who, on a holiday, work in excess of either eight (8) hours or their normal daily schedule, whichever is greater, shall be entitled to overtime compensation for the time worked in excess of eight (8) hours or their normal work day, if greater.

<b>ARTICLE 12 VACATION</b>
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The following vacation schedule shall apply to employees appointed to a permanent or seasonal position:

0-2 years of service	3.70 hours per pay period (12 days per year)
After 2 years of service	4.62 hours per pay period (15 days per year)
After 10 years of service	6.16 hours per pay period (20 days per year)
After 18 years of service	7.08 hours per pay period (23 days per year)
After 21 years of service	7.39 hours per pay period (24 days per year)
After 25 years of service	7.70 hours per pay period (25 days per year)

The maximum annual accrual for employees in this unit shall be two hundred sixty (260) hours. Vacation shall continue to be administered in accordance with the procedures set forth in the Personnel Policies and Practices Resolution, except that vacation may be taken as earned during the first six (6) months of employment.

<b>ARTICLE 13 LEAVE PROVISIONS</b>
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**13.1 Jury Duty**

In accordance with the provisions of Government Code Section 1230.1, deductions in the amount paid as witness or jury fees shall be made from the salary of an employee who is subpoenaed or appears as a witness or is called to jury duty. If the employee takes vacation or other leave or has waived or remitted said fee to the County or appears on his/her off duty hours with no loss of work time, no such deduction shall be made.

Employees summoned to jury or witness duty shall only receive their regular salary and shall, unless they elect to take vacation or other leave, be excused from their regular job duty only to the extent necessary to fulfill their obligations as jurors or witnesses. Except as provided below, no time spent as a juror or witness shall count or be credited toward overtime eligibility, nor shall any other form of premium or extra compensation be paid for any time spent while serving as a witness or juror.

If an employee is subpoenaed as a witness in connection with his/her official duties as a County employee, the time actually spent serving as a witness shall be considered work time and any witness fees shall be waived or remitted to the County, or a deduction equal to said fee shall be made from the employee's regular salary. This section shall not apply to any employee who is a party or an expert witness.

**13.2 Supervisory Employees Leave**

During each twelve (12) month period beginning July 1, employees in Unit N may, with prior approval of their appointing authority, take up to three (3) days of leave with pay. This leave may be taken only during the twelve (12) month period in which it was granted and it may not be carried over into any subsequent period. No payment or other compensation for unused supervisory leave shall be allowed.

During the twelve (12) month period, one (1) additional day of educational leave may be taken by an employee for training or activities related to his/her career interests. The employee shall give reasonable notice for the use of such educational leave and approval shall not be unreasonably withheld.

Approval by the appointing authority for leave that is used for training or educational purposes shall not in any way be construed to imply that the costs of the educational or training program shall be paid for the County or that the employee shall be eligible for tuition reimbursement.

The decision of the appointing authority in approving or denying requests for supervisory leave shall not be subject to the grievance procedure.

**13.3 Sick Leave****13.3.1 Accrual Rate**

Unit employees hired prior to February 18, 1984 shall continue to accrue sick leave at a rate of approximately twelve (12) days per year. Employees hired after February 18, 1984 shall continue to earn sick leave at the rate of approximately ten (10) days per year.

### **13.3.2 Administration of Sick Leave**

Use of accrued sick leave with pay can be granted upon the recommendation of the appointing authority in the case of bona fide illness of an employee or for certain family members as permitted by County resolution, state or federal law. Illness shall not include any illness or injury for which the employee received any benefits pursuant to Section 4850 of the Labor Code.

Sick leave shall be taken in increments of not less than one-quarter (1/4) hour.

Employees shall receive the same sick leave benefits to care for a registered domestic partner as provided for employees to care for a spouse. For purposes of this policy, children of domestic partners shall be treated the same as children or stepchildren of employees.

### **13.3.3 Verification of Sick Leave**

The County may require medical certification or other substantiating evidence of illness for any period of time for which sick leave is sought. Medical certification for an absence of a single day will be required only if a pattern of abuse or excessive use of sick leave exists which requires said certification.

### **13.3.4 Retirement Payoff**

An employee, in lieu of cashing out five hundred (500) hours of sick leave upon retirement, may convert up to seven hundred fifty (750) hours of their accumulated sick leave to the purchase of individual only health benefits under the County health plan.

### **13.3.5 Family Sick Leave**

The Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) provide leave to qualified employees in the case of an employees' own serious health condition, the serious health condition of an immediate family member (as defined by the Act) or for the birth or adoption of a child. FMLA Leave may be granted in accordance with County policies and procedures and the provisions of the Act.

In addition to the FMLA and CFRA, an employee's appointing authority may grant use of accumulated sick leave because of the illness of a family member, as defined below, provided in the judgment of the appointing authority, a medical condition exists which warrants the employee's personal attendance.

Pursuant to the California Kin Care Law (California Labor Code Section 233), permanent and seasonal employees shall be entitled to use up to ten (10) days of the employee's accrued sick leave days in any calendar year for the illness of an employee's child, parent, spouse, eligible domestic partner or child of a domestic partner.

The appointing authority may require a physician's certificate or other substantiating evidence that such illness exists. Such absence by the employee shall be limited to ten (10) working days in any calendar year of paid leave when used for such purpose.

Family members are defined as Spouse/Registered Domestic Partner, child, sibling, parent, parent-in-law, grandparent, or grandchild.

Employees may qualify for additional leave under federal, state or county law.

### **13.3.6 Bereavement Leave**

Use of any accumulated leave balances shall be granted by the appointing authority because of the death of a member of the employee's immediate family. 'Immediate family' shall mean the spouse/registered domestic partner, parents, siblings, child, grandparent, grandchild.

At the discretion of the appointing authority such leave may be granted for the death of other relations; such absence by the employee shall be limited to five (5) working days per occurrence.

It is the intent of the County to attempt to accommodate newly hired employees who have not accumulated leave balances and are faced with the death of an immediate family member as defined above by granting leave without pay. As a condition of granting leave for bereavement purposes, the appointing authority may request written verification of the loss.

### **13.3.7 Parental Leave**

#### *Maternity:*

Normal pregnancy and/or complications arising from pregnancy shall be considered an illness and shall be included within the provisions of this section. An employee shall be eligible for leave of absence without pay for maternity leave of up to six (6) months regardless of whether or not said employee has used all accrued sick, vacation and paid time off leave. Said leaves of absence shall be approved in accordance with the provisions for approval of other types of leaves of absence without pay. Employees may qualify for additional leave under state or federal law.

#### *Other Parental Leave:*

A unit employee may request a leave of absence without pay in addition to any vacation or sick leave taken in the event of the birth of a son or daughter or the adoption of a son or daughter less than six (6) years of age. Said leave shall:

- Not be granted in addition to any maternity leave.
- Be granted to any one employee no more than one (1) time in any two (2) year period.
- Be granted to no more than one (1) employee at a time as a result of the same birth or adoption. Said leave shall be approved in accordance with the provisions for approval of other types of leaves of absence without pay. Employees may qualify for additional leave under state or federal law.

### **13.3.8 Involuntary Leave with Pay**

An employee may be placed on involuntary leave with pay and benefits upon a determination by the County Administrative Officer that circumstances exist that make the immediate removal of the employee to be in the best interests of the County and that the employee cannot be effectively used in his/her job classification within the department.

<b>ARTICLE 14</b> <b>BENEFIT PROGRAMS</b>
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**14.1 INSURANCE**

By mutual agreement, County and Association agree to reopen this Article and meet and confer regarding its terms and conditions at any time during the term of this MOU.

The County agrees to maintain the current levels of employer contributions provided to employees for healthcare benefits, for members of Units M & N, when compared against other County employees.

In the event the County increases the employer elective contributions provided to employees for healthcare benefits, for SEIU, Units F and/or J, the County agrees to maintain a comparable level of benefits.

**14.1.1 Medical Insurance**

The County will provide medical insurance through the Public Employees' Retirement System (PERS) medical insurance program. All rules, regulations and procedures with respect to plan eligibility, benefits, claims payments and customer service procedures, etc for the CalPERS plans are established by CalPERS. The County makes no representations or guarantees whatsoever with respect to the CalPERS health insurance plans.

Permanent unit employees who are regularly scheduled to work forty (40) hours or more in a pay period will be eligible to participate in any of the County's health insurance programs.

Retired employees, dependent upon group coverage conditions, may be eligible for group health care coverage. If a retired employee meets all eligibility requirements and requests health insurance coverage, effective January 1, 2000, the County will contribute toward the monthly premium for eligible retirees enrolled in a PERS health insurance program as directed by PERS.

**14.1.2 Flexible Benefits Plan**

- General Provisions
- The County will make available a Flexible Benefits Plan to all employees.  
Employees may elect from the following optional benefits:
- Employee medical coverage CalPERS
- Dependent medical coverage CalPERS
- No medical coverage
- Employee dental coverage under the County's self-funded plan
- Dependent dental coverage under the County's self-funded plan
- No dental coverage
- Employee vision coverage under VSP
- Dependent vision coverage under VSP

- No vision coverage
- Any other eligible optional benefits which may be made available by the County through this Flexible Benefits plan

### **Additional Payroll Deduction**

For each month, when the benefit options selected by the employee under this plan exceed the appropriate County non-elective and elective contributions for that employee, that employee shall pay by pre or post-tax payroll deduction the full cost (100%) which exceeds the County's contributions for that employee.

### **Unit M: In-Lieu Payout**

For each month that the full County non-elective and elective contributions are not used by an employee to obtain benefit options under this plan, the full amount of funds not utilized shall be forfeited.

### **Unit N: In-Lieu Payout**

For each month that the County elective contribution is not used in full to obtain benefit options under the Flexible Benefit Plan, the full amount of funds not utilized shall be paid out, provided the employee has purchased at least employee-only health insurance through a CalPERS plan offered through the County of Monterey.

### **Flexible Benefits Plan Administration**

The provisions, rules and regulations governing the administration of the Flexible Benefits Plan are contained in the Flexible Benefits Plan document. Changes may be required from time to time to maintain the integrity of this flexible benefits plan as a lawful IRS Section 125 plan. The County and the Association agree that the County shall have discretion to make such changes to ensure this plan is eligible for favorable treatment under the Internal Revenue Code. The County may add or remove benefit options to or from this plan during the term of this agreement, subject to the obligation of the parties to meet and confer only over the impact of such changes. Removal of a benefit shall occur only if the benefit is deemed contrary to public law or regulation governing I.R.S. Section 125 benefit plans, is no longer available by vendor, or becomes insolvent.

### **County Non-Elective Contributions**

The County maximum non-elective contributions toward the Flexible Benefits Plan will be as indicated below. The County shall not contribute any non-elective amounts toward the employee's purchase of any other optional benefits that may be provided by the County through the Flexible Benefits Plan.

Employees shall not have the option of using the non-elective contributions for any other purpose other than for purchasing employee health, employee dental and employee vision insurance. Non-elective contributions not used to purchase employee health, dental and vision insurance will be forfeited.

### **Health Insurance Contribution**

The County's maximum non-elective contribution to the Flexible Benefits Plan for health insurance coverage will be increased as directed by CALPERS in accordance with SB 1464. In 2007, the maximum non-elective contribution will be \$80.80 (eighty dollars and eighty cents) monthly.

**Dental Insurance Contribution:**

The County’s maximum non-elective contribution to the Flexible Benefits Plan for dental coverage will be equal to the cost of the employee only premium monthly for all eligible permanent employees. During the term of this contract, should the dental (employee only premium) non-elective contribution premium increase, the County will pay the increase. Should, during the term of this contract, the non-elective contribution/premium for dental (employee only premium) decrease, the County shall retain the savings from the decrease.

**Vision Insurance Contribution:**

The County’s maximum non-elective contribution to the Flexible Benefits Plan for vision coverage will be equal to the cost of the employee only premium monthly for all eligible permanent employees. During the term of this contract, should the vision (employee only premium) non-elective contribution/premium increase, the County will pay the increase. Should, during the term of this contract, the non-elective contribution/premium for vision (employee only premium) decrease, the County shall retain the savings from the decrease.

**County Elective Contributions**

The County maximum monthly elective contribution to the employee’s Flexible Benefits Plan spending fund will be as follows for full-time, permanent unit employees and part-time, permanent unit employees who are scheduled to work a minimum of forty (40) hours, but less than sixty-four (64) hours:

Unit M:

•	Full Time Employee	Part Time Employee
•	<u>Elective Contribution</u>	<u>Elective Contribution</u>
• Employee only	\$355.80	\$177.90
• Employee plus one	\$716.00	\$358.00
• Employee plus family	\$928.72	\$464.36

Unit N:

•	Full Time Employee	Part Time Employee
•	<u>Elective Contribution</u>	<u>Elective Contribution</u>
• Employee only	\$495.80	\$247.90
• Employee plus one	\$716.00	\$358.00
• Employee plus family	\$928.72	\$464.36
•		

Unit N:

Effective the first full pay period in July 2007, full time, regular employees belonging to Unit N shall receive a monthly stipend of two hundred and ten dollars (\$210.00). These employees may choose to apply this benefit toward the CalPERS health insurance plan for individual or group coverage.

The elective amounts for Units M & N above may be applied toward medical, dental and/or vision coverage for the employee and dependents. Any future increases in health insurance premiums that exceed the County's elective contribution will be paid by the employee through salary deduction.

Any balance of elective funds remaining after the employee elects health insurance may be utilized, at the employee's discretion, toward the purchase of dependent health, dependent dental, or dependent vision insurance and/or any other eligible optional benefits which may be made available by the County through this Flexible Benefits plan. The use of any elective contributions toward the purchase of the benefits stated above is subject to the employee first selecting employee health insurance coverage under PERS.

### **14.1.3 Alternative Benefit Option**

Eligible, full-time unit employees, who are regularly scheduled to work sixty-four (64) hours or more a pay period, providing proof of alternative health insurance coverage shall be reimbursed up to:

	<b>Monthly County Contribution</b>
Employee	\$263.00
Employee plus one	\$463.00
Employee plus family	\$463.00

Eligible, part-time unit employees, who are scheduled to work a minimum of forty (40) hours but less than sixty-four (64) hours in a pay period, providing proof of alternative health insurance coverage shall be reimbursed up to:

	<b>Monthly County Contribution</b>
Employee	\$132.00
Employee plus one	\$232.00
Employee plus family	\$232.00

Part-time unit employees, who are scheduled to work less than forty (40) hours in a pay period, are not eligible for the Alternative Benefit Option.

Employees choosing the ABO option cannot apply ABO benefit dollars towards options under the Flexible Benefits Plan.

Administration of this option shall be subject to County guidelines.

The County and the Probation Association may, by mutual agreement, agree to reopen this Article and meet and confer regarding its terms and conditions at any time during the term of this MOU.

## **14.2 Life**

The County agrees to provide ten thousand dollars (\$10,000) in life insurance for employees. In addition, subject to the terms and conditions of the underwriters, an employee shall have the option to purchase at the current county rate additional life insurance equal to one and one-half (1 1/2) times his/her basic annual earnings or to a maximum of one hundred thousand dollars (\$100,000).

### **14.3 All Insurance**

The County continues to have the right and the obligation to administer the various insurance programs. These rights and obligations include but are not limited to the right to select the carriers and insurance claims administrators after considerations of the recommendations of the Health Insurance Review Committee and prior to meeting and consultation with the Association. Changes in insurance carriers or administrators shall not result in any appreciable reduction in benefits. In the event a change in insurance carriers is made, an open enrollment period will be authorized. The County shall provide the Association and employees a thirty (30) day written notice for premium rate changes for the County's self-funded plan.

### **14.4 Health Insurance Review Committee**

The Committee typically meets on a monthly basis and reviews experience reports and other pertinent information and may make recommendations on plan administration and/or structure to the County Administrative Officer. The Association may appoint a representative to the Health Insurance Review Committee.

### **14.5 Conditional Re-opener**

In the event the Health Insurance Review Committee or the Risk Manager recommends plan modification to the County Administrative Officer, and the parties (i.e., Association and the County) agree on the modifications, the parties will reopen this Agreement to allow implementation of the agreed upon modifications.

### **14.6 Physical Examinations**

Permanent full-time employees in units M & N shall be entitled to a physical examination by appointment at Natividad Medical Center on a biennial basis (i.e., an examination every other year). Results of the examination shall be treated confidentially.

As required by state and federal law, the County shall provide all Unit employees immunizations that are required to be provided by an employer.

### **14.7 Disability Leave of Absence**

State Disability Income Protection (SDI) Leave:

When an employee is on leave of absence and he/she is receiving State Disability Income (SDI) protection plan benefits, in addition to the period of time for which County contributions to health insurance continue as a result of the employee's use of twenty (20) hours or more sick leave per pay period, he/she shall receive one (1) additional month of County paid medical insurance for the employee only for every eighty (80) hours of sick leave accrual balance he/she had as of the first day of continuous absence resulting from the condition which qualifies him/her for SDI benefits.

#### **Workers Compensation**

When an employee on leave of absence receiving Workers Compensation payments and he/she is utilizing integration of accrued sick leave to equal normal salary, he/she shall receive County paid medical insurance and his/her regular County contribution toward dependent medical insurance, if any, until he/she has zero (0) sick leave accrual balance.

#### **14.8 Long Term Disability Insurance**

The County will facilitate the provision of voluntary long-term insurance via the payroll deduction process.

It is understood that long-term disability insurance is wholly voluntary between the employee and the insuring company and that provision of such insurance is subject to the conditions set by the insurance company and may be cancelled by the insurer if its minimum enrollment standards are not met.

In the event of cancellation, the County will no longer facilitate long-term disability insurance.

#### **14.9 State Disability Income Protection Plan**

It is agreed that unit employees shall be covered by the State Disability Income (SDI) Protection Plan at their expense. The SDI benefit will be integrated with County sick leave benefits.

<p style="text-align: center;"><b>ARTICLE 15</b> <b>TRANSFER POLICY</b></p>
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The County retains the sole right to transfer employees from one (1) job assignment/work location to another. Except when an immediate transfer is necessary to meet the requirements of the department, employees shall receive notice five (5) working days prior to the effective date of the transfer.

Employees who desire to be transferred within their respective job classes to a specific job assignment/work location within their own department may submit a written request for transfer to the appropriate department representative. The request shall be retained for a period of two (2) years from date of filing and must be renewed if the employee still desires to be considered for reassignment beyond that date. Management shall respond to the request for transfer by notifying the employee of the status of their request within ninety (90) calendar days of its receipt.

When Management contemplates filling vacancies and/or openings by transferring employees from one job assignment/work location to another, the Appointing Authority will consider the following criteria:

- The overall needs of the department
- Requirements of job
- Ability to perform job
- The duration and/or permanence of the transfer
- Length of service with the department

<b>ARTICLE 16 DISCIPLINE</b>
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**16.1 Disciplinary Actions**

The appointing authority or his/her designee may take disciplinary action against any employee in a department who is subject to this MOU and California Government Code 3300 et seq., provided that the rules and regulations prescribed herein are followed. As used in this section, disciplinary or punitive action shall mean dismissal, suspension without pay, disciplinary demotion, reduction in salary, transfer for purposes of punishment, or written reprimand.

**16.2 Notice of Proposed Disciplinary Action**

In order to institute disciplinary action, the appointing authority or his/her designee shall serve written notice of the proposed disciplinary action in accordance with the following procedures:

Except when emergency or other special circumstances require immediate action, a notice of proposed disciplinary action (other than a written reprimand), shall be delivered to the employee, either personally or by the United States Postal Service, to the current address listed on the employee's most recent personnel action form, no less than five (5) calendar days prior to the effective date of any punitive action against the employee.

The notice of proposed disciplinary action shall include the following:

1. The nature of the disciplinary action;
2. The effective date of the action;
3. The causes for the action in ordinary, concise language with the dates and places thereof, when known;
4. A statement that identifies the material upon which the action is based and states that it is available for inspection; and
5. A statement advising the employee of his/her right to respond either verbally or in writing to the appointing authority or his/her designee imposing the disciplinary action prior to the effective date, the right to be represented in that response, and that members of the bargaining unit are represented by the Association and the address and telephone number of the Association office.

**16.3 Employee Response to Proposed Disciplinary Action**

The employee has a right to respond either verbally or in writing to the Appointing Authority or his/her designee imposing the disciplinary action prior to the effective date of the discipline. The employee must contact the Appointing Authority within ten (10) days of the employee's receipt of the Notice of Proposed Disciplinary Action to request review.

If the employee chooses to respond verbally or in writing, the response must be submitted by the date set forth in the Notice of Proposed Disciplinary Action.

#### **16.4 Notice of Disciplinary Action**

In the case of an involuntary leave without pay of three (3) working days or less or an involuntary leave with pay of twenty (20) working days or less, the involuntary leave may be imposed by a single notice containing items 1, 2, 3, and 4 of the Section titled Notice of Disciplinary Action above. This notice shall be delivered to the employee on or as soon after the effective date of the suspension as possible.

To implement the proposed disciplinary action or a lesser disciplinary action based on the same cause(s), a notice of disciplinary action shall be delivered to the employee, either personally or by the United States Postal Service to the current address listed on the employee's most recent Personnel Action form, on or before the effective date of the disciplinary action.

The notice of disciplinary action shall contain:

1. The information in items 1, 2, 3 and 4 of Section Notice of Proposed Disciplinary Action above and
2. A statement as to the right of appeal and representation by a party of his/her own choice and;
3. A referral to the section of this Agreement concerning appeals from disciplinary action and
4. A statement that members of the bargaining unit are represented by the Association with the address and the telephone number of the Association office.

#### **16.5 Written Reprimand**

An appointing authority or his/her designee may reprimand an employee by furnishing the employee with a statement, in writing, of the specific reasons for such reprimand. A copy of notice of the reprimand shall be included in the employee's personnel file and the employee and/or his/her representative shall have the right to discuss the reprimand with the Appointing Authority or his/her designee and such rights as outlined in Section 16.14. The Appointing Authority or his/her designee may correct the reprimand, or notice of reprimand, at his/her discretion. The employee may submit a written response that shall be placed in his/her personnel file.

#### **16.6 Disciplinary Review**

An employee may be placed on disciplinary review for a specified period of time not to exceed six (6) months for each such instance with the understanding that should the causes for such action not be satisfactorily corrected or remedied during the period, subsequent disciplinary action may be taken.

The six (6) month restriction shall apply only to managerial imposition of discipline and is not intended to restrict the ability of a third (3rd) party neutral to invoke a greater period of disciplinary probation.

An employee on disciplinary probation shall serve at the pleasure of his/her appointing authority during such period of probation.

In the case of an employee serving disciplinary probation, the forfeiture of appeal rights shall extend only to acts or omissions related to the conditions of such disciplinary probation.

## **16.7 Involuntary Leave Without Pay**

Any involuntary leave without pay invoked as a disciplinary action under this section against any employee in the County service, whether for one or more periods, shall not exceed sixty (60) calendar days in any one (1) calendar year; provided, however, that where an employee is placed on involuntary leave without pay because of criminal information or indictment filed against such employee, the period of involuntary leave may exceed sixty (60) calendar days and continue until, but not after, the expiration of thirty (30) calendar days after the dropping of charges, or the judgment or conviction or acquittal of the offense charged in the complaint, or indictment has become final. An employee placed on such involuntary leave shall forfeit all rights, privileges, and salary while on involuntary leave.

The sixty (60) day restriction shall apply only to managerial imposition of discipline and is not intended to restrict the ability of a third party neutral to invoke a greater period of involuntary leave.

## **16.8 Involuntary Leave Pending Investigation for Disciplinary Action**

An appointing authority or his/her designee may place an employee under his/her control on involuntary leave from his/her position at any time for reasons of investigation for disciplinary action. Placement on such leave is not disciplinary and is not subject to appeal.

## **16.9 Reduction in Salary**

An appointing authority may reduce the salary of an employee, for disciplinary reasons, provided that such reduction shall be to a step within the salary range of the classification of the position held by the employee. An employee so reduced in salary shall retain his/her anniversary date but shall not be eligible for advancement to a higher step in the salary range of his/her job classification for a period of six (6) months from the date such reduction in salary became effective.

## **16.10 Disciplinary Demotion**

An appointing authority may demote an employee, for disciplinary reasons, to any position with a lower salary range, provided the employee meets minimum qualifications for the lower-level position. Such demoted employee shall not be eligible for promotion for a period of six (6) calendar months.

## **16.11 Dismissal**

The continued tenure of each employee who has permanent status shall be subject to his/her satisfactory conduct and the rendering of efficient service. Should the cause for disciplinary action so warrant, an employee may be dismissed.

## **16.12 Absence Without Leave Separation**

An employee absent from duty for a period which exceeds three (3) working days without authorized leave shall be considered to have abandoned his/her position and to have automatically resigned.

Such resignation shall be rescinded by the appointing authority if the employee can show to the satisfaction of the appointing authority that it was impossible to contact the department of employment, provided the employee contacts the department within five (5) working days of notice of separation under this section through United States Mail.

### **16.13 Statute of Limitations**

No disciplinary action shall be taken against any peace officer employee of the Department for any cause unless the notice of the proposed disciplinary action is served within one (1) year of the Department's discovery of an act, omission, or other misconduct or non-performance, by a person authorized to initiate an investigation of the allegation(s), with the exception of those circumstances set forth in government Code §3304(d) and (g), or other applicable law.

Nothing herein shall preclude the County from disciplining an employee for cause, which consists of a course of conduct or history of performance that began more than one (1) year prior to the notice of disciplinary action. Such disciplinary and/or performance record of beyond one (1) year shall be used only to determine the level of discipline to be imposed.

### **16.14 Appeals from Disciplinary Action**

Only permanent employees who are not serving their initial probationary period shall have the right of appeal from disciplinary action. Appeals from the various disciplinary actions including dismissal, suspension without pay, disciplinary demotion, reduction in salary, transfer for purposes of punishment, or written reprimand shall be taken in accordance with the following provisions:

1. An employee who receives a transfer for the specific purpose of punishment, that does not involve a reduction in salary or loss of pay, may request an evidentiary hearing before the appointing authority, or his/her authorized designee. The decision of the appointing authority, or his/her authorized designee shall be final and binding.
2. An employee who receives a transfer for the specific purpose of punishment that involves a loss of pay may request a full evidentiary hearing before the appointing authority, or his/her authorized designee, whose decision in the matter shall be final and binding.
3. An employee who receives a written reprimand that does not involve a reduction in salary or loss of pay may request an evidentiary hearing with the next level of supervision/management above the individual issuing the written reprimand. The employee shall also retain his/her right of rebuttal. If it is in writing, the rebuttal shall be attached to the reprimand and placed in the employee's personnel file. If after the hearing, the appointing authority, or his/her authorized designee decides to remove the written reprimand from the employee's personnel file, the employee's rebuttal (if any) shall likewise be removed.
4. A "full evidentiary hearing" under the provisions of 16.14.1 above, when requested by the employee, shall involve the right to be represented, the calling and cross-examination of witnesses, and the issuance of subpoenas deuces tecum. The individual hearing the matter must not have been involved in the initial decision to issue the discipline. The individual who took the disciplinary action shall be present, and Department shall have the burden of proof. An "evidentiary hearing" under the provisions of 16.14.1 or 16.14.3 above, where the action taken results in neither reduction in salary nor loss of pay, when requested by the employee, shall involve the right to be represented, to produce evidence, and to present argument; but it shall not include the right to confront or cross-examine witnesses. The individual who took the disciplinary action shall be present, and Department shall have the burden of proof.

5. A disciplinary appeal to arbitration may be filed only by an employee who is not a probationary employee and who occupies a permanent position, and only from disciplinary actions listed in 16.14 other than those set forth in 16.14.1-4 above.
6. The appeal to arbitration must be filed in writing within a period of ten (10) calendar days after the employee is notified of the decision to take disciplinary action. The failure to file the appeal within the prescribed time limit shall constitute an irrevocable waiver of the employee's disciplinary appeal rights, and the discipline imposed shall become final and binding at the expiration of the ten-day time period. A disciplinary appeal to arbitration shall be filed with the County Administrative Officer, shall be handled confidentially, and a copy of the appeal filed shall promptly be sent to both the appointing authority and the County Counsel's Office.
7. Within twenty (20) days after the appeal is filed with the County Administrative Officer, the parties shall begin the process to select a mutually acceptable arbitrator. The parties shall then select a mutually agreeable hearing date. Except as otherwise mutually agreed upon by the parties in a specific case, an arbitrator shall be selected and a hearing shall be scheduled within sixty (60) calendar days after the appeal is filed.
8. The appellant and the appointing authority may appear personally and may be represented by counsel at the hearing. The hearing shall be private unless the appellant requests a public hearing.
9. Before the hearing has commenced and during the course of the hearing, the arbitrator may issue subpoenas deuces tecum at the request of either party. Oral evidence shall be taken only on oath or affirmation. The appellant and the appointing authority shall each have the right to call and examine witnesses, to cross-examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against him/her. Technical rules relating to evidence and witnesses do not have to apply to such hearings. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. At the hearing, the burden of proof shall be upon the appointing authority.
10. As soon as may be practicable after the conclusion of the hearing, the arbitrator shall prepare a summary record of the proceedings and prepare recommended findings, conclusions and a decision. The hearing officer shall submit a copy of said record of findings, conclusions and decision to the Board of Supervisors. The arbitrator's decision shall not add to, subtract from, or otherwise modify the terms and conditions of this Agreement.
11. Within thirty (30) days after the filing of the record and recommended findings, conclusions and decision of the hearing officer with the Board, the Board shall adopt such recommended findings, conclusions and decision, or shall reject the recommendations of the hearing officer and adopt its own findings, conclusions and decision after a review of the record. The Board shall affirm, modify or reverse the order of the appointing authority causing the disciplinary action. Upon rejection of the recommendation by the Board, the entire administrative record shall be delivered to the Board, and the Board shall have an additional ninety (90) days from the date of rejection to review the entire administrative record and adopt its own findings, conclusions and decision in the matter.

12. The decision of the Board shall be final.
13. Each party shall bear its/his/her own costs in the disciplinary appeal; except that the expense of the arbitrator, the cost of a certified court reporter and the expense of a transcript of the hearing for the arbitrator shall be shared equally by the parties involved in the action being appealed. All other expenses including, but not limited to, fees for witnesses, transcripts for a party and similar or other costs incurred by a party during the disciplinary appeal shall be the responsibility of that individual party.

<b>ARTICLE 17</b> <b>GRIEVANCE PROCEDURE</b>
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**17.1 Grievance Defined**

A grievance is defined as a dispute over the interpretation or application of this Memorandum of Understanding by an employee adversely affected thereby, but shall not include the following:

Disciplinary actions as defined herein that shall be subject to appeal through the procedure contained in this Agreement for the appeal of disciplinary actions;

Complaints regarding Equal Opportunity, Occupational Health and Safety, Workers' Compensation or discrimination complaints based on age, race, color, religion, sex, national origin, marital status, ancestry, disability or sexual orientation or the applicable procedures for such complaints;

The exercise of any County rights as specified in this Memorandum, so long as the exercise of such rights does not conflict with other provisions of this Agreement;

Any impasse or dispute in the meeting and conferring process, or any matter within the scope of representation;

Any matter for which a different appeals procedure is provided either by statutes, ordinances, resolutions, or agreements.

The Association shall be entitled to file a grievance on behalf of an employee adversely affected by a grievable matter.

The Association may file a grievance on its own behalf only on those matters which pertain to the rights of the Association as an organization as specified in Article 5 of this Agreement.

**17.2 Limited Grievance Procedure Application**

An employee shall be entitled to file a grievance which alleges that the County has failed to provide a specific condition of employment which is established by the Personnel Practices and Policies Resolution provided that the enjoyment of such right is not made subject to the discretion of the department head or the County, and provided further that the condition of employment which is the subject matter of the grievance is a matter within the scope of representation as defined in California Government Code Section 3504. Such limited grievances may not be appealed to arbitration.

**17.3 No Discrimination**

There shall be no restraint, interference, coercion, discrimination or reprisal against any employee for exercising any rights under the grievance procedure.

**17.4 Time Limits**

The time limits set forth herein are essential to the grievance procedure and shall be strictly observed. The time limits may be extended by agreement of the parties; however, any such extension must be confirmed in writing.

The grievant has the right to promptly proceed to the next step within the prescribed time limits if the appropriate management representative fails to respond within the time limits specified.

Failure of the aggrieved employee to file an appeal within the prescribed time limits for any step of the procedure shall constitute abandonment of the grievance.

## **17.5 Grievance Procedure Steps**

### **Step 1**

#### Discussion with Immediate Supervisor

1. The grievant shall first discuss the grievance informally with his/her immediate supervisor. The discussion shall be held within fifteen (15) working days of the action causing the grievance or of the date the action reasonably could have been expected to be known to the grievant. In no event shall any grievance be accepted for consideration more than six (6) months from the date of the action causing the grievance, regardless of the date the action became known to the grievant.
2. Every reasonable effort shall be made to resolve the grievance at this level. The immediate supervisor shall verbally respond to the grievant within five (5) working days of the informal discussion between the grievant and supervisor.
3. An employee may request a meeting with the Office of the Chief Probation Officer before filing a written grievance

### **Step 2**

#### Formal Written Grievance

1. In the event the employee believes the grievance has not been satisfactorily resolved, the employee shall submit the grievance in writing to the department head within ten (10) working days after receipt of the immediate supervisor's verbal response or the response of the Office of the Chief Probation Officer. The grievant shall file one (1) copy with the Human Resources Division. Such written grievance shall:
  - a) Fully describe the grievance and how the employee(s) was/were adversely affected;
  - b) Set forth the section(s) of the Memorandum of Understanding, allegedly violated;
  - c) Indicate the date(s) of the incident(s) grieved;
  - d) Specify the remedy or solution to the grievance sought by the employee(s);
  - e) Identify the grievant and be signed by the grievant;
  - f) Identify the person, if any, chosen by the grievant to be his/her representative.
2. No modifications in the basic violation being alleged pursuant to this grievance procedure shall be made subsequent to filing of a grievance unless mutually agreed to by both the County and the grievant or the grievant's representative. However, corrections in citations or other clarifying amendments can be made at any time by the grievant or the grievant's representative.

The department head or his/her designee shall hold a meeting and discuss the grievance with the grievant within seven (7) working days of the receipt of the appeal. The department head or his/her designee shall deliver his/her written decision to the grievant and/or his/her representative within three (3) working days of the date of the grievance meeting. The department head's or his/her designee's decision shall include the reasons on which the decision is based and the remedy or correction which has been offered, if any, to the grievant.

### **Step 3**

#### Deputy CAO - Human Resources/Mediation

1. If a grievance is not settled at Step 2 of the procedure, the grievance may be appealed, in writing to the Deputy CAO - Human Resources or his/her designee within ten (10) working days from the receipt of the department head's or his/her designee's written decision. Said grievance appeal must specifically set forth the reason the answer(s) previously provided by management is/are not satisfactory. A meeting may be held by mutual agreement of the parties.
2. The Deputy CAO - Human Resources or his/her designee shall hold a meeting with the grievant within seven (7) working days of the receipt of the appeal. The Deputy CAO - Human Resources or his/her designee shall deliver his/her written decision within ten (10) working days of the date of the meeting.
3. In the event a represented employee chooses to waive a hearing by the Deputy CAO - Human Resources or his/her designee, the Association on behalf of the employee may, within the ten (10) day appeal period, make a written request to the Deputy CAO - Human Resources or his/her designee to seek within ten (10) working days the assistance of a mediator from the State Conciliation Service in an attempt to resolve the grievance.

The mediator shall have no authority to resolve the grievance except by mutual agreement of the Association and the County. In the event the grievance is not resolved, neither evidence nor concessions agreed to or offered during mediation shall be admissible at the subsequent hearing.

If the grievance is not resolved through mediation, the Deputy CAO - Human Resources or his/her designee shall issue a written decision.

### **Step 4**

#### Arbitration

1. If a grievance is not settled at Step 3 of the procedure, the Association and only the Association may appeal the grievance in writing to the County Administrative Officer within ten (10) working days from the receipt of Deputy CAO - Human Resources or his/her designee's written decision.
2. The parties shall select a mutually acceptable arbitrator through the services of the State of California, Office of Mediation and Conciliation. Either the County or the Association may request a list of arbitrators. Each party shall have the right to alternately strike an arbitrator's name from the list until the name of an arbitrator has been agreed upon, or no name has been mutually agreed upon. In the case that no arbitrator from the list has been mutually selected, another list shall be requested from

State Mediation. The process of requesting a list and alternately striking names shall continue until both the County and the Association has mutually agreed upon an arbitrator

The fees and expenses of the arbitrator; the transcript for the arbitrator; and the court reporter shall be shared equally by the parties, it being understood and agreed that all other expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, will be the responsibility of the individual party involved.

3. The decision of an arbitrator shall be final and binding upon the parties but shall not add to, subtract from, nor otherwise modify the terms and conditions of this Agreement.

The parties expressly agree that the term of this section shall expire as of the expiration date of this contract and that the status quo shall revert to a situation where there is no arbitration of grievances that occur after the expiration date of this agreement until or unless the Board of Supervisors approves a successor agreement.

### **17.6 Notice of Meetings**

The County and the grievant or the grievant's representative shall be responsible for giving notice of meetings and conferences to their representative parties at least twenty-four (24) hours prior to any meeting regarding a grievance whenever possible.

### **17.7 Representation**

1. The employee has the right to the assistance of one (1) employee representative/job Association representative in addition to a staff representative of the Association in the preparation and/or presentation of his/her grievance in Steps 1 through 4 of this procedure provided, however, that supervisory employees shall not represent non-supervisory employees.
2. An employee is also entitled to represent him/herself individually at any step of the grievance procedure, except in the arbitration procedure outlined in this Agreement. Only the Association may file for arbitration of a grievance.
3. A grievant may not change his/her designation of representative organization during the processing of a grievance, except by mutual agreement of the parties.
4. If the employee is represented in a formal grievance meeting, the department may also designate a management representative to be present in such a meeting.

### **17.8 Grievance Withdrawal**

The grievant and his/her representative may withdraw the grievance at any stage of the grievance procedure by giving written notice to the County representative who last took action on the grievance, with a copy to the Human Resources Division.

### **17.9 Grievance Resolution**

If a grievance is resolved at Step 2 or 3 in the procedure as provided herein, the grievant concerned shall indicate acceptance of the resolution by affixing his/her signature in the appropriate space on the grievance form or appropriate document. If the employee has been represented by the Association at the Step of the procedure at which a resolution is

reached, the Association representative shall also sign the appropriate document acknowledging that the employee has accepted the resolution.

Decisions on grievances where an employee represents him/herself shall not be considered precedent setting or binding with regard to any future grievances filed with respect to the same or similar matters.

#### **17.10 Consolidation**

The County may consolidate grievances, where, in its discretion, the grievances present substantially similar issues.

The Association may file group grievances at the second step of the grievance procedure by listing each person who claims to be adversely affected and all other data required in this article.

#### **17.11 Processing Grievances**

The grievant shall be granted reasonable time off with pay from regularly scheduled duty hours to process a grievance, provided that the time off will be devoted to the prompt and efficient investigation and handling of grievances, subject to the following:

1. Neither a grievant nor a grievant's representative who is a county employee shall suffer any lost pay for attending any regularly scheduled grievance hearing required by the procedure herein set forth.
2. A grievant or a grievant's representative shall notify their supervisor as soon as possible of scheduled grievance hearings and of any changes in the time or date of scheduled hearings in which they must participate.
3. In no event shall a grievant be represented by more than one (1) county employee at the grievance hearings.

<b>ARTICLE 18</b> <b>LAYOFF PROCEDURE</b>
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**18.1 Policy**

The County may layoff an employee because of lack of work, lack of funds, material change in duties or organization, or in the interest of economy or causes outside the County's direct control.

The County shall inform the Association regarding the effects of any planned reduction in force or layoffs that will affect a department's work force.

The department shall contact the Association and offer to discuss the possible reduction and to invite suggestions for possible cost saving alternatives to layoffs. If alternatives to layoffs are not developed by the time the department determines a layoff should occur, the procedure outlined in Section 26.2 below shall be followed.

Departments and employees covered by other layoff procedures; i.e., Local Agency Personnel Standards, State Merit System, or Anti-recession Federal Regulations, shall be governed by those procedures.

**18.2 Procedure**

Layoffs will be determined within County departments, not the County as a whole. In the event of a reduction in force in a department, the department head shall designate the classes, positions, and number of employees to be eliminated. The department at this time shall provide the Association with a current seniority list for those employees and classes affected.

Layoffs shall be made among all representation unit employees in the same class series within a County department in the following order:

- Temporary employees.
- Probationary new employees (excluding promotional probationary employees.)
- Seasonal employees
- Permanent employees.

No permanent employee within a department shall be laid off in any class if there are temporary employees in an active status in the same class within that department.

Layoff shall be by ranking sequence of employees except as otherwise provided herein.

**18.2.1 Rank in Class Defined**

For purposes of layoff rank shall be defined as the length of continuous service in a class series as determined by County personnel records while occupying a permanent position within the County. Continuous service for purposes of ranking for layoff shall be defined to include work related injury leave of up to one (1) year's duration.

**18.2.2 Order of Layoff, Exception to Ranking Sequence**

Layoffs of employees within each category of employment status within a department and within a class series shall be based on ranking sequence unless it can be demonstrated that: 1) an employee possesses special skills, training, or abilities, or 2) the

employee's past job performance or disciplinary record justifies an alternative ranking, or 3) the employee may be, by virtue of ranking sequence subject to disparate treatment.

### **18.2.3 Ranking in Previous Class**

A permanent full-time employee may elect to be ranked with employees in any class in the same department with the same or lower salary in which the employee has served in permanent status in the County service. An employee must notify his/her appointing authority within two (2) days after receipt of written notice of layoff or election of this option except if the second day following notice of layoff is not a regularly scheduled work day, the employee may give notice on the next work day.

### **18.2.4 Demotion in Lieu of Layoff**

In lieu of layoff, the department head may offer a permanent employee a demotion to any class for which the employee is qualified. Employees demoted in lieu of layoff pursuant to this paragraph shall not be eligible for the "Y" rating procedure. An employee who accepts a demotion in lieu of layoff shall have the right of restoration to his or her former class when an opening occurs and his or her ranking sequence warrants restoration subject to the provisions of Section 26.4 below.

## **18.3 Notice**

Written notice of layoff shall be served on the affected employees in person or mailed by the United States Postal service to the employee's latest address on file with the County. The layoff notice shall be served or mailed at least twenty-one (21) calendar days prior to the expected effective date of separation unless delay results from consideration of demotion under the provisions of Section 24.2.4. The notice shall include:

1. The reason for the layoff.
2. The effective date of the action.
3. A reference to the provisions governing reemployment.
4. Notice that employment counseling is available.

A copy of the notice shall be given to the Association.

## **18.4 Reemployment of Employees Laid Off**

The names of persons laid off under these procedures shall be maintained on a departmental recall list for the class series from which the employee was laid off for a period of one (1) year from the date of layoff. When filling using a departmental recall list to fill a position in a class from which layoffs have occurred within the one (1) year recall period, the department head shall reemploy laid off employees from the appropriate departmental recall list in inverse order of layoff. During the one (1) year recall period, no new employee shall be hired nor shall any employee be promoted to a class from which layoffs have occurred until all employees on layoff status in that class have had the opportunity to return to work.

However, when the best interest of the County requires an employee with demonstrated special qualifications, skills or training, the department head may make an exception to the above order of recall in order to appoint an employee out of ranking sequence.

Every employee given notice of layoff may request employment counseling and evaluation in order to determine those job classes within the County for which the

employee meets employment eligibility requirements and desires to be considered for employment from a preferred eligible list. Such counseling and evaluation shall be available by appointment in order of request. Following the counseling and evaluation, laid off employee's name shall be placed on a preferred eligible list for each class designated as a result of the counseling and evaluation. When the Human Resources Division receives a request to refer applicants to a department for a vacant position in a class for which there exists a preferred eligible list, the laid off employee on the list shall be considered for employment prior to any job applicant. A competitive job related selection process may be used to determine the order in which laid off employees on a preferred eligible list for a class will be referred for an interview.

A laid off employee may be removed from the department recall list or a preferred eligible list for any of the following reasons:

- The expiration of one (1) year from the date of layoff,
- Reemployment within the County,
- Failure to accept employment or report to work,
- Failure to appear for a job interview after notification by telephone or by mail addressed to the employee's last address on file with the County,
- Failure to respond within seven (7) days to a communication regarding availability of employment,
- Request in writing by the laid off employee to be removed from the list.

#### **18.5 Status of Employees Re-employed From a Preferred Eligible List**

Employees who are re-employed from a preferred eligible list shall serve a new probationary period, and otherwise be treated as a new employee with the following exceptions: former employees who are hired from a preferred eligible list shall be entitled to:

1. Placement at up to step 5 in the class into which they are hired provided that the salary upon rehire does not exceed the salary the employee was receiving at the time of layoff,
2. Reinstatement of credit for service time (ranking) as of the date of separation from County service,
3. Credit for all prior service for the purpose of determining vacation and sick leave accrual rates, and
4. Restoration of any sick leave balance credited to the employee's account on the date of layoff.

#### **18.6 Restoration of Benefit for Recalled Employees**

Any employee who has been laid off and is hired from a departmental recall list under the terms of this article within one (1) year from the date of layoff shall be entitled to:

1. Restoration of permanent status for employees who are rehired from a departmental recall list and class from which they were laid off, and who have completed their probationary period. For employees who have not completed their probationary

- period, credit for that portion which has been completed shall be given if rehired from a departmental recall list.
2. Restoration of all sick leave credited to the employee's account on the date he was laid off.
  3. Credit for all prior service for the purpose of determining vacation accrual rates.
  4. Placement in the same step of the salary range the employee held at the time of layoff.
  5. Reinstatement of credit for service time (ranking) as of the date of layoff.

### **18.7 Insurance Coverage**

Each permanent employee who is enrolled in the County Health Plan at the time of layoff may, prior to the effective date of the layoff, elect to enroll in a health insurance conversion plan offered by our then current health plan administrative carrier. In the event the laid off employee so elects, the County will pay an amount equal to two (2) times the employee only premium at the time of layoff toward the cost of the health insurance conversion plan. The above insurance provision does not apply to employees who retire coincidental to their layoff.

### **18.8 Appeal Procedure**

An employee directly affected by the operation of this policy may, within five (5) working days after a notice of layoff is received, request a meeting with a department head or the department head's designated representative to review the application of this policy as it affects the employee's status. A representative of the Association may accompany the employee.

The Association, and only the Association after making an attempt to resolve the matter informally, may within seven (7) days of the date of an alleged violation of this policy file a grievance for final consideration and determination at the department head level in accordance with the provisions of the grievance procedure in effect between the County and the Association. A grievance filed in accordance with this paragraph shall not be subject to the Article on "Arbitration," of this Agreement.

**ARTICLE 19  
USE OF VOLUNTEERS**

No volunteer program shall have the effect of displacing any county employee. The County shall meet with the Association to discuss any countywide volunteer program before implementing such a program.

**ARTICLE 20  
HEALTH AND SAFETY**

**20.1 Work Environment**

The County recognizes its obligation and is committed to providing a safe place of employment for its employees. To assist in accomplishing this goal, it is agreed that the County reserves the right to adopt reasonable departmental rules and regulations that become effective when posted.

The Association agrees that it is the duty of all employees to comply with all reasonable rules and regulations and to be alert to all unsafe places, equipment and conditions and to report any such unsafe practices or conditions to their immediate supervisor.

**20.2 Health and Safety Committee**

The County and the Association shall participate in a county-wide Health and Safety Committee which may meet on a bimonthly basis to review county safety records, policies and programs, and make recommendations for the resolution of health and safety issues brought before them by either the County or the Association. Each party shall furnish the other the agenda items they wish to discuss one (1) week prior to any scheduled meeting.

Sections on Work Environment and Health and Safety Committee are not subject to the grievance procedure.

**ARTICLE 21  
COUNTY MAIL SYSTEMS**

The Association may use the County mail system in compliance with the Policy for Acceptable Use of Monterey County Computing and Information Resources.

The County email system may be used for reasonable Association business as long as the communication is not political in nature nor maligns the County, its employees or officials.

**ARTICLE 22  
VOLUNTARY FITNESS INCENTIVE PROGRAM**

Effective with the first calendar year of this contract, all unit employees may participate in the Voluntary Fitness Incentive program. Hartnell College will conduct an annual fitness assessment of all enrolled participants. Those employees achieving a fitness level as follows will receive the corresponding fitness bonus:

Employees achieving Level 4:	Five hundred dollar (\$500) fitness bonus
Employees achieving Level 5:	Seven hundred fifty dollar (\$750) fitness bonus
Employees achieving Level 6:	One thousand dollar (\$1000) fitness bonus

**ARTICLE 23  
POLYGRAPH EXAMS**

It is agreed that the use of polygraph examinations shall be limited to pre-employment background investigations.

No bargaining unit employee shall be required to cooperate with, participate in or submit to any polygraph examinations as a condition of continuing employment except as specified above.

**ARTICLE 24  
PERSONAL PROPERTY REIMBURSEMENT**

**24.1 General Provisions**

Whenever an employee engaged in assigned official duties on behalf of the County sustains a loss of personal property, through no fault of the employee, that employee shall be eligible for reimbursement for such personal property.

The employee shall at all times bear the burden of proving the extent of any loss and the absence of any contributing negligence on the employee's part.

**24.2 Claims for Reimbursement**

A request for reimbursement must be submitted by claim to the appointing authority no later than thirty (30) days from the date of loss. Management shall review the claim and if circumstances warrant, reimbursement shall be made.

**24.3 Exclusion from Reimbursement**

1. Claims based on cash losses or losses due to lost or stolen credit cards shall not be considered.
2. Claims based upon damage to automobiles may be considered under the provisions of this section:

The provisions of paragraphs 24.1 and 24.2 of this section must be satisfied.

The employee shall have named the County as an additional insured on their automobile insurance policy as of the date the employee sustained the loss to his/her automobile.

Reimbursement will be limited to Two Hundred Dollars (\$200) and will be made only upon the presentation of an invoice for work completed along with evidence of the required insurance coverage.

The damage must have occurred while the employee was actually using the automobile on authorized County business, away from the employee's regularly assigned work place.

3. No reimbursement shall be granted for losses covered by some other source, insurance policy or agency.

**24.4 Maximum Reimbursement**

A maximum limit of Two Hundred Dollars (\$200) per incident shall apply to all claims for reimbursement.

#### **24.5 Minimum Claim**

No claims for reimbursement for items having a present value of less than Ten Dollars (\$10) shall be considered.

#### **24.6 Uniform Exclusion**

No claims for reimbursement shall be paid for damage to uniforms.

<b>ARTICLE 25 PERSONNEL RECORDS</b>
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The County and the Association agree that personnel records for peace officer employees shall be generated, handled and maintained in accordance with applicable statutes and/or regulations.

It is mutually recognized that all performance related materials contained within an employee's personnel file may provide material substance and support for proposed and imposed disciplinary actions. Nothing in this Agreement shall preclude the use of any material, which complies with the above paragraph, in an employee's personnel file from being used in any proceeding involving the decision of the appointing authority to take disciplinary action against the employee.

<b>ARTICLE 26 REST PERIODS</b>
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Employees are entitled to a fifteen (15) minute duty free rest period during each four (4) hours of continuous work.

A rest period shall count as fifteen (15) minutes of time worked for calculation of pay.

Rest periods may be suspended when unusual emergency conditions require continuous performance of duties in order to protect or preserve life or property.

Rest periods may be suspended for up to five (5) continuous days when short term staffing shortages require continuous work in order to provide essential services; additional suspension of rest periods within thirty (30) days due to staffing shortages requires approval by the Assistant CAO – Human Resources or his/her designee.

<b>ARTICLE 27 PROFESSIONAL MEMBERSHIP</b>
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Effective July 1, 2008, permanent County employees in classifications represented by Units M & N shall be eligible for reimbursement up to fifty dollars (\$50.00) per fiscal year for professional organization membership. In order to receive reimbursement, an eligible employee must submit to the Auditor-Controller a claim approved by the Appointing Authority certifying that eligible professional organization dues have been paid.

<b>ARTICLE 28 PERFORMANCE EVALUATIONS</b>
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An employee who does not agree with the overall rating that he/she receives on his/her written performance evaluation shall discuss and attempt to resolve the differences with his/her immediate supervisor.

If discussion with his/her immediate supervisor does not result in resolution of the differences, the employee may file a written request to meet with the next level of management. Said request

shall state the unresolved issues and the specific changes in the written performance evaluation, which the employee is seeking. The appropriate manager shall meet with the employee to discuss the unresolved issues.

If the issues are not resolved to the employee's satisfaction following discussion with the appropriate manager, the employee may within ten (10) working days file a written request for a meeting with the department head. Within ten (10) working days of receipt of a written request stating the unresolved issues and the desired changes in the written performance evaluation, the department head shall meet with the employee to discuss the issues. Within ten (10) working days of said meeting, the department head shall respond in writing to the employee. The decision of the department head shall be final and not subject to the grievance procedure.

Within thirty (30) days from the final decision, an employee has the right in accordance with the Peace Officer Bill of Administrative Rights (POBAR) to write a response to the evaluation that will be attached to the employee's evaluation in the personnel file.

**ARTICLE 29  
SEPARABILITY**

If any section, subsection, paragraph, clause or phrase of this Agreement is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Agreement, it being hereby expressly declared that this document, each section, subsection, paragraph, sentence, clause and phrase thereof, would have been adopted irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

**ARTICLE 30  
COUNTY RIGHTS**

The County will continue to have, whether exercised or not, all the rights, powers and authority heretofore existing, including, but not limited to the following: Determine the standards of services to be offered by the constituent departments; determine the standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; issue and enforce rules and regulations; maintain the efficiency of governmental operations; determine the methods, means and personnel by which the County operations are to be conducted; determine job classifications of county employees; exercise complete control and discretion over its work and fulfill all of its legal responsibilities. All the rights, responsibilities and prerogatives that are inherent in the County by virtue of all federal, state, and local laws and regulations provisions cannot be subject to any grievance or arbitration proceeding.

The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the Board of Supervisors, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Agreement and then only to the extent such specific and express terms hereof are in conformance with the Constitution and Laws of the United States and the Constitution and Laws of the State of California.

The exercise by the County through its Board and management representatives of its rights hereunder shall not in any way, directly or indirectly, be subject to the grievance procedure set forth herein.

**ARTICLE 31  
CONCERTED ACTIVITIES**

The parties to this Agreement recognize and acknowledge that the services performed by the County employees covered by this Agreement are essential to the public health, safety, and general welfare of the residents of the County of Monterey. Association agrees that under no circumstances will the Association recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out, slow-down, or picketing (hereinafter collectively referred to as work-stoppage), in any office or department of the County, nor to curtail any work or restrict any production, or interfere with any operation of the County. In the event of any such work stoppage by any member of the bargaining unit, the County shall not be required to negotiate on the merits of any dispute that may have given rise to such work stoppage until said work stoppage has ceased.

In the event of any work-stoppage, during the term of this Agreement, whether by the Association or by any member of the bargaining unit, the Association by its officers, shall immediately declare in writing and publicize that such work-stoppage is illegal and unauthorized and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the County. In the event of any work stoppage the Association promptly and in good faith performs the obligations of this paragraph, and providing the Association had not otherwise authorized such work-stoppage, the Association shall not be liable for any damages caused by the violation of this provision.

The County shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work-stoppage activity herein prohibited, and the County shall also have the right to seek full legal redress, including damages, as against any such employee.

**ARTICLE 32  
EMERGENCY AUTHORITY**

Nothing contained herein shall be construed to limit the authority of the County to make changes for the purpose of preparing for or meeting an emergency. For the purposes of this article, any change in law or circumstances that significantly reduces currently existing or anticipated revenue levels, shall be included within the definition of an emergency. Such emergency actions shall not extend beyond the period of the emergency.

Whenever practicable, the County will meet and consult with the Association prior to taking action under the authority of this section. After taking action under the authority of this section, the County, upon request, will meet and confer with the Association over the practical consequences that the emergency action taken had on those terms and conditions of employment that are within the scope of representation.

**ARTICLE 33  
FULL UNDERSTANDING, MODIFICATION, WAIVER**

It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Existing matters within the scope of representation which are not referenced in the Memorandum of Understanding and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process. The County assures the Association that unless changes are warranted by operational necessity it does not intend, nor does it anticipate, during the term of this Memorandum of Understanding any change, modification or cancellation of wages, hours, and working conditions which are subject to meet and confer and which are presently in effect or contained in this Memorandum.

Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, although they may mutually agree otherwise, to negotiate with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations, during the term of this Agreement.

Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the County's Board of Supervisors.

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

This Memorandum of Understanding was tentatively agreed to on August 18, 2006 and the full Memorandum of Understanding was adopted by the County of Monterey Board of Supervisors on September 12, 2006.

PROBATION ASSOCIATION

COUNTY OF MONTEREY

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Marcia Parsons

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P.A. Covert

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