

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF
STANISLAUS
AND THE GROUP SUPERVIORS' BARGAINING UNIT**


This agreement is entered into between the County of Stanislaus and the Group Supervisors' Bargaining Unit represented by Stanislaus County Group Supervisors' O Association (SCGSA).

Pursuant to the Employee Relations Ordinance of the County and Section 3500 et seq. of the Government Code, the duly authorized representatives of the County and SCGSOA, having met and conferred in good faith concerning the issues of wages, hours, and terms and conditions of employment as herein set forth, declare their agreement to the provisions of this Memorandum of Understanding.


FOR THE COUNTY:



William O'Brien, Chair
Board of Supervisors



Richard W. Robinson
Chief Executive Officer



Nancy Bronstein
Senior Management Consultant



Mike Hamasaki
Probation Manager



Katty Sanhu
Human Resources Manager



Jennifer Wharton
Assistant Management Consultant


FOR THE UNION:



Paul Kondsorf, Labor Representative
Goyette and Associates



Frank Murrillo, SCGSA President
President



Dina DeChari, SCGSA Vice President
Treasurer



Ed Malberg, SCGSA Secretary-Treasurer
Group Supervisor

Date Signed 12-18-07

1.) PREAMBLE

This Memorandum of Understanding (MOU), hereinafter referred to as "Agreement," is entered into between the County of Stanislaus, hereinafter referred to as the "County," and Stanislaus County Group Supervisors Association, hereinafter referred to as the "Union." This MOU incorporates by this reference all appendices and/or side letters attached.

2.) TERM OF AGREEMENT

This agreement is for the period commencing January 1, 2007, and concluding midnight, December 31, 2010.

The Parties may agree to extend the term of this Agreement while meeting and conferring is in process over the renewal of this agreement.

3.) NO STRIKE

The Union agrees and acknowledges, that strikes, sick-ins, slow-downs or other forms of work stoppages or disturbances are detrimental and not in keeping with the responsibility of the Union and its members to insure that high quality service is provided to the people of the County. Any such actions are also a violation of County ordinances. The Union and its members agree not to sanction, support, condone, or engage in any such actions directly or indirectly during the term of this agreement. The County agrees that there shall be no lock out during the term of this agreement.

4.) EMPLOYER-EMPLOYEE RELATIONS

A) SCOPE OF BARGAINING

The County recognizes the Union as the exclusive bargaining representative concerning wages, hours and other terms and conditions of employment for all full-time, regular and probationary employees, and any employee occupying an allocated position in the classifications comprising the Group Supervisors designated bargaining Unit "T."

The Union represents all regular part-time employees working a minimum of twenty-two (22) hours per week and occupying a budgeted position, who are in the above mentioned bargaining unit. The Union agrees that no extra-help positions are represented.

B) NO DISCRIMINATION

The parties agree that the provisions of this agreement shall be applied without favor or discrimination based upon race, ancestry, religion, color, age, national origin, political affiliation or belief, disability (includes persons with AIDS or those with a

record of or regarded as having a substantially limiting impairment), medical condition (cancer related), pregnancy related condition, sex, marital status or sexual orientation. The parties agree to recognize, respect, and support the County's commitment to nondiscrimination in employment as set forth in the County's Equal Employment Opportunity Program. The Union agrees to encourage its members to assist in the implementation of that program.

The Union shall fairly represent all employees in the represented unit without regard to race, ancestry, religion, color, age, national origin, political affiliation or belief, disability (includes persons with AIDS or those with a record of or regarded as having a substantially limiting impairment), medical condition (cancer related), pregnancy related condition, sex, marital status or sexual orientation, job classification, or employment status, and in compliance with the law. County acknowledges and agrees that it shall not discriminate or take adverse action against employees on the basis of their choice of representation.

C) COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA)

The County and the Union acknowledge and agree that the ADA may require modification of County policy or MOU provision in order to provide reasonable accommodation to individuals protected under the Act on a case by case basis. The County and the Union agree to meet and confer if the accommodation will require some modification of the MOU or County policy that affects any term or condition of employment or is otherwise a mandatory subject of bargaining. Said meet and confer will be on a case by case basis and no single accommodation shall establish a past practice.

D) UNION LISTS

On or about the first of each month, the County will provide to the Union, a current list of members of the bargaining unit. The list shall include, but not be limited to, new hire(s), termination(s), promotion(s), demotion(s), transfer(s), listed by full name, home address, home telephone, employee number, department and classification.

Upon written request by the Union, the County will provide to the Union a current list of changes within it's represented unit. That list will include, but not be limited to, the employee's name, home address, home telephone, employee number, department and classification.

The Union agrees to take all due precautions to insure that any information provided will be used only for representation and will not be used in any manner so as to harm the confidentiality or right of privacy of employees. The Union agrees to indemnify, defend and hold harmless the County, its employees and agents against damages, or claims of whatever nature arising out of the Union's control and use of representation lists.

E) BULLETIN BOARDS

The County shall provide adequate space for bulletin boards to post informational materials, wherever there are bargaining unit employees.

F) CONTINUING OTHER POLICIES

The parties agree that the County's Reduction-in-force Policy, Grievance Procedure, Equal Employment Opportunity Grievance Procedure, Discipline Policy, sick leave, vacation, holiday and retirement policies in effect immediately prior to the commencement of this agreement shall remain in effect during the term of this agreement unless amended by these provisions or subsequent agreement of the parties.

The personal property damage reimbursement policy of the County will also remain in effect during the term of this agreement with the understanding that it is not intended to cover reimbursement for normal wear and tear and that any and all disputes arising out of the process will be resolved through the County's grievance procedures.

G) AGENCY SHOP

Dues Deductions/Maintenance of Membership

During the term of this Agreement, the County agrees that it will deduct from the salary of each full-time member of the bargaining unit, who provides written authorization for such deductions. The County shall remit said dues and charges, so collected, to the address provided to the Auditor Controller's Office on or before the end of the calendar month in which the deductions have been made. The foregoing, however, is subject to sufficient funds being due to the Group Supervisor for whom deductions are made, after the County has paid all of the legally required or Group Supervisor authorized payroll deductions. A list shall accompany the deductions remitted to SCGSA offices, showing the names of the Group Supervisors from whom deductions have been made.

SCGSA agrees to defend, indemnify and hold harmless Stanislaus County, its employees and agents against damages and claims of whatever nature arising out of deductions from employee paychecks.

The parties agree to a Maintenance of Membership provision.

All Group Supervisors who voluntarily elect to be dues paying members of SCGSA, through bi-weekly payroll deductions, shall continue to pay dues until such time as a window period for withdrawal from voluntary dues deduction is offered. The parties agree that the window period for withdrawal from participation in voluntary dues deduction shall be during the full calendar month of June for each year. During this

period, the Group Supervisor shall have the right to withdraw from SCGSA by submitting a signed, written statement to the Auditor-Controller during the window period of June 1 through June 30 of each year in order for the deduction to be discontinued. The County shall assume no responsibility for drop letters, which the Group Supervisors contends were sent to the Auditor-Controller and not received, and thereby subsequently not acted upon. Such occurrence shall not be subject to the grievance procedure. Group Supervisors are advised to submit their withdrawal notice by certified mail. The discontinuance of payroll deductions shall be effective with the earliest pay period after June 30th of each year as determined by the Auditor-Controller.

The withdrawal letters shall be maintained in the Auditor-Controller's Office for review by the SCGSA Labor Representative or their designated representative.

If a dues-paying Group Supervisor transfers to another bargaining unit, the Group Supervisor shall not be required to continue the dues deductions.

SCGSA shall hold the County and its officers and employees, including but not limited to the County Auditor-Controller, harmless for following the instructions contained in such dues deduction authorizations and withdrawals.

The County shall inform newly employed members of the bargaining unit that it has a Collective Bargaining Agreement with SCGSA by distributing a pre-approved packet of information to all new bargaining unit members.

The County shall notify the SCGSA Labor Representative of any newly employed members of the bargaining unit the first of the month for the preceding 30 days. Information will include name, address, home phone number, date of hire, employment category, department and classification. SCGSA agrees to defend, indemnify and hold harmless Stanislaus County, its employees and agents against damages and claims of whatever nature arising out of SCGSA's use of such lists.

SCGSA is invited to attend County-wide employee-orientation sessions and set up an informational table.

The Group Supervisors' bargaining unit began this contract period as a Maintenance of Membership shop. This may change to an Agency Shop pending a State sanctioned election.

Agency Shop

1. The bargaining unit members will hold a vote on Agency Shop. If fifty percent (50%) plus one of those who cast a vote, vote in favor of Agency Shop, as a term and condition of employment, employees in the bargaining unit must either:

A. Join the Union and pay union dues; **or**

- B. Pay a Direct Service Fee to the Union (service fee amount determined by union); **or**
- C. Pay a sum equal to the service fee to the United Way of Stanislaus County.

Said employee shall have five (5) working days to fully execute the authorization form of his/her choice and return said form to Agency/Department Payroll. If the form is not completed properly and returned to Agency/Department Payroll within five (5) working days, the County Auditor-Controller shall commence and continue a payroll deduction from the regular biweekly paycheck of such employee. These funds shall be paid to the Union as a service fee in lieu of Union membership.

The effective date of Union dues, service fee deductions or charitable contribution of such employees shall be the beginning of the first pay period of employment.

2. The Vote:

Bargaining Unit members may cast their vote on DATES/LOCATIONS/TIMES TO BE DETERMINED (Election to be held within 30 days of County Board of Supervisor approval of newly negotiated contract).

3. Implementation:

Votes will be tallied, if at least fifty percent (50%), plus one of all employees voting, vote in favor of Agency Shop, the Agency Shop provision will be implemented with the start of the first pay period in TBA. At such time, the Agency Shop provisions language will supersede the Maintenance of Membership language in this M.O.U.

H) DISTRIBUTION OF UNION INFORMATION

The parties agree that the Union shall not be unreasonably denied the right to distribute information to employees of the bargaining unit in keeping with procedures agreed upon between the Union representatives and the Department Head. Such procedures shall not interfere with County operations and shall not involve direct distributions to individuals during working hours. Subject to the above conditions, the procedures which may be agreed upon include use of employee mail boxes or slots, break rooms or rest areas, or distribution to employees outside of working hours.

The Union agrees to send to the Chief Executive Officer a copy of any Union flyer, newsletter or any other document to be posted on bulletin boards or otherwise distributed for Union member's or bargaining unit information.

I) UNION COMMUNICATIONS

The parties agree that the Union shall be permitted to provide communication material through employee paychecks four (4) times per year. The Union shall provide the appropriate number of copies sorted by department location.

J) INTERNET ACCESS

Employees represented by the Union may use the County Internet e-mail to provide an electronic link with the Union. The Employee must provide their e-mail address to the Union to receive correspondence. The Union shall not use the County Internet e-mail to send non-Union related mail, broadcast a broad appeal for Union membership, marketing goods, advertising, social events or solicitations. Employees shall not be disciplined or penalized for receiving or sending Union related e-mail. This e-mail provision does not supersede, but is in addition to current County e-mail policies. The Union acknowledges that e-mail and facsimile correspondence is not privileged or confidential and may be subject to review by management at any time.

K) UNION STAFF ACCESS

Union staff shall have the right to enter work sites during working hours for the purpose of ascertaining that the provisions of this MOU are being observed and, to meet with members and/or members of the board. Such access shall occur after notification to the Department Head, Human Resources Manager or designee. The Department Head or their designees shall not unreasonably deny such access. Union staff agrees not to disrupt or interfere with County operations.

L) UNION EMPLOYEES REPRESENTATIVES

The president or his/her designee shall be allowed reasonable time off with pay during the normal working hours to assist in the resolution of grievances, to participate in fact-finding interviews related to discipline, or to investigate allegations that the terms of this agreement are not being met in their respective departments and divisions. The president or his/her designee shall obtain prior approval from the Department Head or designee for such time off and such approval shall not be unreasonably denied. No more than one (1) person may be on release time on any given issue/grievance. Release time shall not interfere with County operations.

The Union shall file with the Chief Executive Office the names of the association board of directors within thirty (30) days of the date of signing this agreement and shall thereafter advise the Chief Executive Officer in writing of any changes within thirty (30) days of the effective date of such changes.

M) ATTENDANCE AT MEETING – THE UNION PRESIDENT

The County employee who serves as president of the Union shall be given reasonable time off with pay to consult with management representatives to promote greater communication between the parties, or to be present at hearings or meetings on behalf of any bargaining unit employee. This time may be in addition to time spent during the meet and confer process. Use of this time shall not be for internal Union organizing purposes nor shall this time interfere with County Operations.

N) TIME BANK

The parties agree that a SCGSA time bank has been established for the purpose of authorizing SCGSA members to request use of this time for SCGSA business as determined by the SCGSA Board. Any use of SCGSA time bank shall be approved by the SCGSA Board prior to submission of the request. Time bank does not include time used by the SCGSA for meeting and conferring with the Chief Probation Officer or the County.

Time bank requests shall be submitted and approved consistent with Juvenile Hall's existing policy for approval of vacation time. The SCGSA time bank request shall be approved unless staffing is required on an overtime basis in order for the request to be approved. SCGSA time bank shall not supercede previously approved vacation requests of other Juvenile Hall personnel.

Effective upon Board of Supervisors approval and January 1st of each subsequent year, every employee covered by this agreement shall contribute an equal amount of hours, or portions thereof, from vacation to create a bank of one hundred (100) hours to be used for SCGSA business. The unused hours in any year shall be carried over to the next year. However, the maximum number of hours in the time bank shall be capped at one hundred (100) hours. The time bank shall not be subject to cashout nor shall it be returned to contributing employees.

The SCGSA shall hold the County and its officers and employees harmless for transferring the vacation time from employees covered by this MOU as provided for in this Section.

O) COUNTY RIGHTS

Stanislaus County retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the departments of County government in all of their various aspects, including, but not limited to the rights to direct the workforce; to plan, direct and control all of the operations and services of the County; to determine the methods, means, organization and schedule by which such operations and services are to be conducted; to assign and transfer employees within the various departments; to hire, promote, suspend, demote, discharge, reprimand, and evaluate employees; to relieve employees from duty due to lack of work or other legitimate reasons set forth in the County Reduction-in-Force policy; to change or eliminate existing methods, equipment or facilities in order to maintain or increase the efficiency of governmental operations; and to exercise complete control and discretion over its organization and the technology of performing its work.

Nothing contained herein shall be construed to preclude meeting and conferring between employer and employee regarding the practical consequences that decisions on these matters may have on wages, hours, terms, and conditions of employment.

P) PERSONNEL AND HUMAN RESOURCES

1.) PROBATIONARY PERIOD

Employees hired into the represented unit shall be required to serve a probationary period of one (1) year starting from the date of appointment. Upon the successful completion of the probationary period, an employee shall be granted permanent status unless the probationary period is extended. The probationary period of an employee may be extended beyond the one- (1) year period, but not in any instance shall this period exceed an additional six (6) months, for a total of eighteen (18) months. An employee absent without pay exceeding fifteen (15) calendar days shall cause the probationary period to be extended by the number of calendar days of such absence.

2.) ACCESS TO OFFICIAL PERSONNEL FILES

The parties agree that the County Chief Executive Office policy, as found in Tab 29 of the County Personnel Policy and Procedure Manual, on access by an employee to the contents of his or her official personnel file maintained by the Chief Executive Office will continue. That policy provides that upon request, an employee may review the contents of his or her official file and be provided with a copy of any materials in that file. With the written consent of the employee, a designated representative of the employee may review the contents of the file.

3.) ACCESS TO DEPARTMENT PERSONNEL FILES

With a minimum of three (3) working days notice, an employee may review the contents of his or her department personnel file and be provided with a copy of any materials in that file. An employee may also respond to any adverse material contained in that file. With the written consent of the employee, a designated representative of the employee may review the contents of the file.

The intent of the three (3) day notice requirement is to allow departments to review the personnel file to ensure only appropriate documents are contained therein, and that inappropriate documents are permanently removed and placed in the correct location, if any.

4.) ADVERSE MATERIAL

No adverse material may be placed in an employee's official personnel file, maintained in the Chief Executive Office, unless such material is first discussed with the employee. The employee must be informed that the material will be placed in their personnel file. The employee shall be given an opportunity to sign the document acknowledging receipt, and then given a copy of the document. If the employee is not available, a copy of the material must be sent certified mail to

the employee's home. Employees may submit rebuttals to such adverse documents and said rebuttals shall be placed in the official file.

Q) EMPLOYEE RIGHTS

Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the County. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.

R) ORIENTATION

The County agrees to provide a space for the Union to have a table display during New Employee Orientation. New Employee Orientation is held on the third Thursday of each month at County Center III. Departments may invite the Union to participate in Departmental New Employee Orientation meetings.

5.) SAFETY PROGRAM SUPPORT

The parties agree to and acknowledge their mutual responsibility to provide a working environment free from unsafe and harmful working conditions. The parties further agree to strive to reduce the number of job-connected illnesses and injuries. The Union agrees to support and encourage its members to participate in such safety training as the County may provide or the wearing of such safety equipment as may be required and to adhere to such safety procedures governing the methods of work or equipment as may be required. The County will purchase or reimburse employees for the purchase of any personal safety equipment specifically required by the County in order to comply with CAL-OSHA requirements.

6.) CONTRACTING SERVICES

The County agrees to notify the Union at least forty-five (45) days in advance of contracting out positions which are currently filled by employees in the bargaining unit. The Union will notify the County of its desire to exercise its right to meet and confer on the impacts contracting out would have on the Union's represented employees.

7.) COMPENSATION

A.) SALARY INCREASE

All classifications in the Bargaining unit will receive the following wage increase:

- 2% - Effective the first pay period following Board of Supervisor approval
- 2% - Effective the first pay period following November 1, 2007
- 2% - Effective the first full pay period following November 1, 2008

B.) SALARY ADMINISTRATION

- 1) The parties agree that the County salary policy applied to an employee dismissed during probationary service from a position to which he or she had been demoted, promoted or transferred, will be clarified as follows: Such an employee's salary shall be returned to the same step in the appropriate salary range as had been held prior to the promotion, demotion or transfer. Employee salary review date, if applicable, shall be adjusted by the equivalent number of months during which an employee did not hold the classification to which he or she is returning. (County Code Section 3.23.030)

- 2) Employees shall be eligible for advancement to the second step of their salary range on their anniversary date after one (1) year of continuous service at the first step. Eligibility for advancement to subsequent salary steps will thereafter be based on one (1) year of satisfactory continuous service at the prior step until the employee reaches the maximum step of appropriate salary range. (County Code Section 3.24.030)

C.) SALARY ON PROMOTION

The county shall continue to guarantee a five percent (5%) minimum salary increase on promotion in accordance with existing County Code provisions. Effective July 1, 1991, an exception to this provision shall be made if the step to which the employee is promoted is six (6) cents or less per hour under the minimum five percent (5%) increase

D.) OVERTIME

The parties agree that the County's overtime pay provisions in effect prior to the commencement of this agreement will continue in effect unless modified by this agreement with the exception noted below.

Calculation of time and one half compensation for overtime shall be based upon a calculation of time "worked" rather than time "paid." That is, time off voluntarily taken by an employee in the form of vacation, holiday or compensatory time off shall be excluded from consideration in calculating overtime eligibility. For overtime compensation purposes such voluntary time taken shall not be considered as time worked. Paid time off in the form of sick leave, bereavement leave, jury duty or military leave shall be considered time "worked." Also, holiday time off shall be considered as time "worked" when the offices were closed and employees were not given the option to continue working.

E.) ON-CALL PAY

Unless otherwise specified herein, on-call compensation for bargaining unit employees formally assigned by the Department Head to remain available to return to work shall be compensated at the rate of \$4.00 per hour in addition to base pay, for each hour of on-call service performed.

F.) CALL-BACK

Employees performing approved call-back overtime service, or who are subpoenaed in the line of duty and required to appear in court during their off-duty hours, shall be compensated therefore upon the basis of overtime work. Provided, however, no such overtime work shall be compensated for less than two (2) hours upon each occasion that the employee is called upon to perform such service, irrespective of the fact that the actual amount of overtime service performed may be less than two (2) hours, and no employee shall be compensated for more than eight (8) hours overtime work in any one eight-hour (8) period. The parties agree that the phrase "each occasion" means the employee is called to return to work from an off duty (other than serving on call) status. If an employee is performing call back work and while performing this work receives another call, this call will not be a second callback, but rather a continuation of the overtime work.

G.) SHIFT DIFFERENTIAL

Unless otherwise specified, all employees who are assigned to regularly scheduled shifts during the time periods as specified herein shall be eligible to receive shift differential.

Employees assigned to work a shift, where 50% or more of the scheduled hours fall between 3:00 p.m. and 11:00 p.m. shall receive additional compensation of five percent (5%) for the entire work shift.

Employees assigned to work a shift, where 50% or more of the scheduled hours fall between 11:00 pm and 7:00 am shall receive additional compensation of seven and a half percent (7.5%) for the entire work shift.

In recognition of the 6/3 shift schedule those employees assigned to the 6/3 shift schedule who are scheduled to work 7:00 am to 3:00 pm who work beyond 3:00 pm will be eligible for the 5% shift differential for time worked after 3:00 pm. Employees who are scheduled to work 3:00 pm to 11:00 pm who work beyond 11:00 pm will be eligible for the 7.5% shift differential for time worked after 11:00 pm.

H.) CERTIFICATE PAY

Full-time employees who successfully complete the State mandated STC Core Training shall receive an additional compensation of three percent (3%) in certification pay.

I.) TEMPORARY OUT OF CLASS ASSIGNMENT (LEAD PAY)

The parties agree that Group Supervisor III's formally designated to act in the capacity of Senior Group Supervisors and Group Supervisor II's formally designated to act in the capacity of Group Supervisor III's at Juvenile Hall for any eight (8) hour shift, shall be compensated for that shift at the appropriate promotional rate of pay of the of the appropriate higher classification (an approximate 5% minimum). The parties agree that the County's out-of-class provisions for Group Supervisors shall remain in effect for the term of this agreement.

J.) BILINGUAL CERTIFICATION PAY

The County will designate certain languages as eligible for bilingual certification. Employees asserting their competence in any County designated bilingual language shall be given the opportunity to test for bilingual certification. The County CEO or designee is responsible for conducting bilingual certification testing within a reasonable amount of time. Employees will be tested for verbal and/or written bilingual proficiency as determined by the County CEO and Sheriff. Employees who pass the test will be certified as bilingual.

Employees certified as bilingual will receive additional compensation of \$0.69 per hour for bilingual certification pay, effective the first full pay period following the certification date. Only those employees certified bilingual will be granted bilingual certification pay.

Employees receiving bilingual certification pay shall use their bilingual skills within the course of employment to maintain the certification pay. Bilingual employees who are not certified as bilingual will not be subject to discipline for declining to use bilingual skills in the course of employment.

8.) UNIFORM ALLOWANCE

The County shall provide Group Supervisors \$220.00 for the initial purchase of authorized uniforms and equipment. Effective July 1 of each year an annual uniform maintenance allowance of \$110.00 will be provided to existing employees. New employees shall be provided with the initial allowance and as prorated amount for the maintenance depending on how long they have been with the Department during the year.

Effective January 1, 2008 the County shall provide Group Supervisors \$270.00 for the initial purchase of authorized uniforms and equipment. Effective January 1, 2008 an annual uniform maintenance allowance of \$160.00 will be provided to existing employees. New employees shall be provided with the initial allowance and a prorated amount for the maintenance depending on how long they have been with the Department during the year.

The parties agree that there will be no uniform enhancements or changes in the uniform policy as it applies to Group Supervisors assigned to the Probation Department during the term of this agreement. The parties also agree that Group Supervisors acting as transportation officers will have the same uniform requirements as Group Supervisors.

9.) MILEAGE REIMBURSEMENT

Effective July 2007 employees, who use their personal vehicle in the course of their duties and responsibilities as an employee of the County, shall receive the specified IRS allowance rate mileage reimbursement effective on January 1, of each year. Use of Personnel Vehicle must be pre-approved by Department Manager.

10.) RETIREMENT

- A.) Safety members shall receive upon retirement three percent (3%) of base salary at age fifty (50), including the single highest year.
- B.) The parties agree that the County's retirement benefits in effect prior to the commencement of this agreement will remain in effect. Further, should the County choose to provide incentives for early retirement in the form of the County payment for additional time credit in the Retirement System, such benefit would apply to full-time employees in those classifications which may be designated for participation in this program by the Board of Supervisors.
- C.) Employee retirement contribution rates are established by the Stanislaus County Employee Retirement Association (STANCERA). The County agrees to pay portions of the employee retirement contribution rates for all employees during the term of this agreement as follows:

Effective July 7, 2007, the County shall pay one and one half percent (1.5%) of the employee's retirement contribution rate (Basic and COLA) to STANCERA.

Effective the first full pay period following January 1, 2009, the County shall pay an additional three percent (3.0%) of the employee's retirement contribution rate (Basic and COLA) to STANCERA for a total of four and half percent (4.5%) of the employee's retirement eligible earnings.

Effective the first full pay period following January 10, 2010 the County shall pay an additional four percent (4.0%) of the employee's retirement contribution rate (Basic and COLA) to STANCERA for a total of eight and one half percent (8.5%) of the employee's retirement eligible earnings.

County contributions towards an employee's retirement contribution rate shall not exceed the actual employee retirement contribution rate being charged by STANCERA at any time. If an employee's retirement contribution rate falls below the amounts provided in Section C the County contribution amount will be lowered to equal the actual employee retirement contribution rate being charged by STANCERA.

Employees in retirement Tier 4 (formerly Tier 1), shall maintain the retirement benefit known as "30-year pay." Tier 4 employees are eligible for this benefit as determined by STANCERA when an employee has reached thirty (30) years of service and is no longer required to make contributions to the retirement system.

10.) HEALTH AND WELFARE

A.) GROUP PLANS AVAILABLE

The parties agree that health, dental and vision plans are made available to County employees and, where applicable, their dependents through a flexible benefit program. The parties acknowledge these plans are, except the self-insured dental and vision plans, independent group health plans which may adjust their respective premiums or benefits as deemed necessary by the plan provider.

B.) GROUP DENTAL AND VISION

The parties have agreed upon a self-insured dental and vision plan made available by the County for County employees and their dependents as part of the flexible benefit program. The Union agrees to meet and confer on the request of the County concerning the effects of premium contributions if providers of dental or vision insurance increase premium rates during the term of this agreement.

C.) STATE OR FEDERAL HEALTH CARE REFORM

Should any new State or Federal legislation be approved to take effect during the term of the agreement which effects the County's health insurance programs, the parties agree to immediately meet to determine the potential impact, if any, on employees or the County, of the legislation. Absent legislation modifying such, the County agrees that at least the dollar amounts of premium contributions made by the County for health insurance premiums shall be available to employees during the term of the agreement, unless amended through the joint negotiation process on health insurance.

D.) DOMESTIC PARTNER COVERAGE

The County shall make available the option of Domestic Partner coverage in health/vision/dental plans to employees who meet the legal requirement applicable to the State of California and have a Declaration of Domestic Partnership filed with the California Secretary of State.

E.) JOINT DISCUSSION OF GROUP INSURANCE ISSUES

The parties recognize that the County has joined Pacific Business Group on Health (PBGH). The group has not yet negotiated their rates for the upcoming year. The parties agree to meet and confer in the Joint Task Force for discussions of health insurance when rates become available. These rates will be available each June. Current benefits and flexible benefit program contributions shall remain in effect until changed by the parties.

11.) LEAVE TIME BENEFITS

A.) VACATION REQUESTS

1.) Priority Vacation Requests

All priority (one week or more) requests shall be submitted to the Senior Group Supervisor in charge of scheduling during the month of November and returned as soon as possible, but no later than the last day of December. Approving vacations shall be based on seniority within shift assignment and classification.

Employees can provide one (1) priority and up to three (3) alternate vacation requests listed in order of priority on the request form.

Seniority may only be exercised for one continuous block of time per calendar year.

2.) Standard Vacation Requests

All standard vacation requests will be processed on a first come, first served basis.

The Department shall make a good faith effort to approve standard vacation requests as soon as possible, but no later than 14 calendar days after receipt of the request. Requests for vacation shall not be unreasonably denied.

Priority vacation requests will take priority over individual day requests.

3.) Approved Vacations

After any vacation request is granted, it will remain granted except in unforeseen emergencies at which time those vacations scheduled during that period may be recalled.

B.) VACATION ACCUMULATION MAXIMUM

Vacation time in the amount not to exceed 450 hours shall be carried over on employee accrual balances from year to year.

The parties agree that employees who have reached the 450-hour vacation accumulation maximum shall not accrue any additional vacation time. Accrual of vacation time shall again commence in the pay period that the employee's vacation time has fallen below the 450 hour maximum. It is the policy of the County that the employees take at least their normal vacation each year; provided, however, that for reasons deemed sufficient by their Department Head, an employee may, with the consent of the Department Head, take less than the normal vacation time with a correspondingly longer vacation the following year.

Employees who are nearing the vacation accumulation maximum of 450 hours (at 370 hours or higher) will receive notification from the department. Employees are encouraged to request vacation upon receiving this notice pursuant to department procedures.

Failure by the employee to make a good faith effort to request vacation in accordance with departmental procedures will result in vacation accrual stoppage at 450 hours.

If the employee does make a good faith effort to request vacation time and the request is denied by the Department, or the approved vacation is canceled, or cannot be utilized by reason of subpoena or other required duties of the Department, the employee shall receive up to eighty (80) hours of vacation cash-out. It is understood employees may have to request vacation time outside of high use times, i.e. holiday seasons and summer months.

C.) LIMITED CASH CONVERSION

The parties agree that, employees with 100 or more hours of accrued vacation on the records may request conversion into cash payments of up to forty (40) hours of accrued vacation not more frequently than once in a fiscal year.

D.) VACATION ACCUMULATION RATE

The parties agree that consistent with the County Code the following vacation accumulation rates are in effect during the term of the agreement:

- a) 3.08 hours per pay period (ten (10) days a year) for the first through completion of the second year of continuous service.
- b) 4.62 hours per pay period (fifteen (15) days a year) for the start of the third year through and including the tenth year of continuous service.
- c) 6.16 hours per pay period (twenty (20) days a year) for the start of the eleventh year through and including the twentieth year of continuous service.
- d) 7.70 hours per pay period (twenty-five (25) days a year) for the twenty-first year of continuous service and thereafter until separation from County service.

In addition, employees shall earn sixteen (16) hours of "special" vacation time each calendar year in lieu of optional holiday time. "Special" vacation shall be earned in addition to the regular vacation and shall be earned by prorating said amount over twenty-six (26) periods.

E.) COUNTY HOLIDAY POLICY

1) HOLIDAYS

a.) DATES OBSERVED

- January 1, New Year's Day
- The third Monday in January, Martin Luther King Day
- The third Monday in February, Washington's Birthday
- The last Monday in May, Memorial Day
- July 4, Independence Day
- The first Monday in September, Labor Day
- November 11, Veteran's Day
- November __, (The Thursday designated as Thanksgiving Day)
- The day after Thanksgiving Day
- December 25, Christmas Day
- *December 24, Christmas Eve, 4 hours when Christmas Eve falls on any day of the week except Saturday or Sunday

*The parties recognize Christmas Eve is a standard recognized holiday for Group Supervisors as a result of the 6/3 work schedule; including when Christmas Eve falls on a Saturday or a Sunday. Employees assigned to other schedules will receive Holiday Credit according to County Code.

Only the immediate days of mourning or holiday declared by the President of the United States and the Governor of California will be considered as holidays observed by the County.

b.) NEW YEARS DAY

The Parties agree employees working on 11:00 pm to 7:00 am on December 31st will receive (8) hours of holiday credit for New Years Day. Employees scheduled to work from 11:00 pm January 1st to 7:00 am January 2nd will not be eligible for holiday credit.

c.) TIME AND ONE HALF FOR CERTAIN HOLIDAYS

The County agrees that any work performed by bargaining unit members on one (1) of the following holidays shall be compensated consistent with current policy, and an additional half time compensation shall be granted. The holidays designated for such additional half time compensation shall be January 1, New Years Day, Martin Luther King Day, July 4, Independence Day; Memorial Day; Labor Day; November 11, Veteran's Day; Thanksgiving Day; the day after Thanksgiving, 4 hours December 24; and December 25, Christmas Day.

F.) COMBINING OPTIONAL HOLIDAY TIME WITH VACATION

The parties recognize that on December 31, 1983, any optional holiday time was combined with vacation benefits. The rate of accrual of vacation hours was increased on January 1, 1984 by sixteen (16) hours of optional holiday time. See sub-division D of this section for vacation accrual rates.

Optional holiday time on the books as of December 31, 1983 for an employee, was "frozen" on the books and may be:

- 1) Taken as time off,
- 2) Cashed out with the approval of the employee, the Department Head and the County Auditor-Controller, or
- 3) May be cashed out upon the employee's termination.

Eight (8) hours of vacation credit for holidays will be given during the bi-weekly period in which the holiday occurs. The exceptions to this are:

- 1) New hire or employees who return from leave of absence will receive vacation credit for a holiday if the first day worked is on or before the holiday;
- 2) Terminated or discharged employees, or those beginning an unpaid leave of absence, will accrue vacation credit for a holiday if the last day for which pay is received falls after the holiday or if the last day worked falls on the holiday;

- 3) Employees on disciplinary suspension without pay will not receive vacation credit for any holiday occurring during the period without pay; or,
- 4) Employees taking time off without pay will not accrue the holiday if they are on an unpaid status during the major portion of the pay period.

G.) JURY DUTY

The parties agree that the County's current Jury Duty policy will remain in effect with the addition that if an employee assigned to work a p.m. or night shift (as such shifts are defined in the Salary and Position Allocation Resolution) is required to perform jury duty, the following policy will apply:

An employee who works on the night shift or the p.m. shift who is called to jury duty may be excused from all or part of the shift following the jury duty. To be eligible for such jury duty leave, the employee must advise the affected Department Head in writing of his/her summons to jury duty and, after jury duty service, report to the Department Head the number of hours the employee was detained for jury duty service including reasonable travel time. As quickly as possible thereafter, the Department Head and the employee will schedule by mutual agreement, if possible, the makeup of any hours owed to the County equal to the difference between the hours of actual jury duty services plus reasonable travel time and the hours of work following the jury duty service for which the employee was excused. This make-up of work shall not be compensable as overtime.

H.) LEAVES OF ABSENCE

- 1) The parties agree that the County's leave of absence policy will remain unchanged during the life of this agreement with the exception that leaves of absence without pay may be approved for probationary employees. Further, as a condition for a leave without pay to continue, the County may require the employee on leave to provide periodic status reports demonstrating that the conditions still remain upon which the leave of absence was initially requested and approved. In addition, the parties agree that time worked during the probationary period will be counted toward permanent status even if a person has an intervening leave of absence during the probationary period.
- 2) The parties agree that employees may request leaves of absence for educational purposes and that such request will be duly considered under general County leave of absence procedures. (Amended 10-26-93)
- 3) Parties agree that the County amend Section 3.36.030 of the County Code by adding the following sub-section: The granting of any leave of absence

without pay or other time off without pay exceeding fifteen (15) calendar days shall cause the employee's date of eligibility for increase vacation accrual rates under this section to be postponed by the equivalent number of months to the nearest number of months for which the leave is granted based on the number of calendar days in such leave.

- 4) Any leave of absence without pay or other time off without pay exceeding fifteen (15) calendar days shall cause the employee's anniversary date to be postponed.
- 5) The parties agree that the Family Medical Leave Act and the California Family Rights Act allows eligible employees to take reasonable leaves of absence for the birth, adoption, or placement of a foster child; for the care of a spouse, son, daughter or parent who has a serious health condition; or because employees are unable to perform the functions of their positions due to serious health conditions. Eligible employees will include both management and non-management employees who have been employed with the County for at least twelve (12) months and have worked 1250 hours during that twelve (12) month period. For information on the County's Family Leave Policy, employees should contact their department payroll clerk or the CEO-Risk Management Division.

I.) SICK LEAVE/BEREAVEMENT LEAVE/WORKERS COMPENSATION

1) Use (3.40.010 County Code)

While in the continuous service of the County, County officers and employees, other than temporary, part-time or seasonal employees, shall be entitled to 3.7 working hours or a proportionately equal number of hours as prescribed in Section 3.32.010 herein of sick leave pay for each biweekly pay period of actual service. Such sick leave with pay can only be granted upon the recommendation of the Department Head in case of bona fide illness of the employee or in the event of serious illness in the employee's immediate family. Immediate family normally means father, mother, husband, wife, son, daughter, sister, brother, grandparents, grandchildren, father-in-law, or mother-in-law; however, for reasons held to be sufficient by the employee's Department Head and approved by the Chief Executive Officer, this definition may be expanded to include others persons with whom the employee had enjoyed a parent or family-like relationship. Sick leave granted because of serious illness in the employee's immediate family shall normally be limited to forty (40) working hours or a proportionately equal number of hours as prescribed in Section 3.32.010, but this period may be extended for reasons held to be sufficient by the employee's Department Head.

Bona fide illness shall include pregnancy when the pregnancy incapacitates the employee to the extent that she cannot fully perform the duties of her job. A statement from the employee's physician verifying such incapacity shall be required before sick leave with pay will be granted, and the statement shall accompany the monthly payroll on which the first illness is shown. (Ord. NS 976 S 1, 1981: prior code S 2-2-6(a)).

In the event of a death in the employee's immediate family, bereavement leave, not to exceed forty (40) working hours or a proportionately equal number of hours as prescribed in Section 3.32.010, may be granted the employee without charge to sick leave.

Utilization of sick leave for the care of others besides the employee shall be provided consistent with the rights under MOU, State Labor Code Section 233 and Federal law.

2) Certificate Required (3.40.030 County Code)

All employees who claim sick leave with pay, upon return to work after an illness, shall complete a certificate of illness or a form provided by the Department's Personnel Department. An employee shall furnish a certificate issued by a licensed physician or other satisfactory proof of illness upon the request of the Department Head concerned. The certificate of illness signed by the Department Head shall accompany the monthly payroll, if no certification is received the time away from work shall be charged to either accrued vacation or the employee shall be marked absent on the payroll. No sick leave will be honored without completion of this form. (Prior code S 2.206 (b)).

3) Exempt Causes (3.40.040 County Code)

No County employee shall be entitled to sick leave while absent from duty on account of any of the following causes:

- a) Disability arising from any sickness or injury purposely self-inflicted or caused by any of his/her willful misconduct;
- b) Sickness or disability sustained while on leave of absence other than his/her regular vacation. (Prior code S 2-206 (d)).

4) Termination Payment

The following sick leave cashout practice shall apply:

Employees who leave County service as a result of death, disability retirement, or service retirement excluding deferred retirement, shall

receive cash for accrued, but unused sick leave on the books at the rate of fifty percent (50%) of the salary equivalent of such sick leave. Employees with more than six (6) years of service as a "regular" employee, shall receive cash for accrued, but unused sick leave on the books at the rate of twenty-five percent (25%) of the salary equivalent of such sick leave upon voluntarily terminating County service for any reason other than retirement as described above. Terminations for cause, regardless of the length of service shall result in zero cashout of accrued sick leave.

Employees in a "regular" employment status for six (6) years or less who terminate County services for all other reasons except due to a Reduction-in-Force action as provided by the "Reduction-In-Force Policy," including but not limited to deferred retirement, resignation and discharge, are not eligible to receive any cash-out of unused sick leave. Employees with one (1) year of service or more who are laid off due to a Reduction-in-Force action, shall continue to be eligible for the twenty-five percent (25%) sick leave cashout as provided by existing County policy. (Portion of County Code Section 3.40.050).

Termination of service shall include death, in which event payment shall be made to the person or persons entitled to succeed to the estate of the deceased employee. This section, as amended, shall include all accumulated or unused sick leave acquired while in the service of the County. (Prior code S 2-106 (e)).

The maximum amount of sick leave that shall be applied toward the cash out provisions as provided for in the MOU shall be 600 hours. For example if an employee retires from County service, he or she would be cashed out for fifty percent (50%) of 600 hours or 300 hours. Time in excess of the 600 hours may continue to accrue and be used in the case of illness.

In addition, any current employee who has accrued time in excess of 600 hours may, upon retirement, consistent with current MOU provision, cashout the amount of time accrued as of January 1, 1995 or the end of the last pay period in October 1994, whichever time is higher. The total sick leave accrual on the date for each employee shall become the employee's individual maximum or cap for sick leave cashout purposes while the employee remains in the continuous employment of the County. For example, if the employee has 1000 hours on the date the cashout maximum takes effect, he or she would be cashed out for fifty (50%) of 1000 hours or 500 hours upon retirement. Any time accrued and in excess of this time will not be subject to cashout.

The purpose of this provision is to place a ceiling on the County's cashout liability for sick leave while maintaining unlimited accrual of sick leave

for catastrophic illness. The purpose of sick leave is to continue the employee's salary for as long as sick leave time is available during periods of illness.

5) Policy

The parties agree that sick leave benefits are important employee fringe benefits and that the misuse or abuse of sick leave is improper and adversely affects the large majority of employees whose sick leave use is legitimate.

6) Conversion if Sick Leave Cashout Benefits to Health Insurance Upon Retirement

If the County establishes a program which allows for the conversion of sick leave cashout benefits to cover the cost of health premiums upon retirement, that program will be made available to members of the bargaining unit. This program must meet the criteria of the Auditor-Controller for tax purposes.

J.) REST PERIODS

Each Department Head is empowered to grant employees in his/her department rest periods during the working hours of the day, such rest period not to exceed fifteen minutes in any four (4) consecutive hours of work. (Prior code 2- 203 (I))

Rest Periods or “breaks” are intended to improve work performance by providing some relaxation during a period of concentrated effort. Therefore, breaks are not to be used at the beginning or end of a four (4) hour work period in order to extend the lunch hour or leave the work place early. It also follows that break-time may not be accrued; a break missed or skipped is not time-off available for later use. Short rest and stretch breaks, of five (5) minutes or less are recommended after each hour of continuous, repetitive work, such in the use of a computer keyboard.

K.) AUTOMATIC RESIGNATION

The parties agree that an employee who is absent without authorization and without contacting his or her supervisor for three (3) consecutive working shifts, or longer, will be presumed to have voluntarily resigned from County service, effective on the date at which the unauthorized absence began. The provisions of Ordinance Code Section 3.28.120 (Petition to Set Aside Resignation) shall apply.

Effective upon Board Approval (June 26, 2007) the parties agree that the employee can request within 30 days of his/her resignation a meeting or present a written petition to his/her Department Head to have his/her resignation set aside

prior to his/her appeal to the hearing board. Should the Department head make a determination to set aside the resignation the employee would no longer need to appear in front of the hearing board. Employees utilizing the opportunity to meet with his/her Department Head will still need to follow the provisions in Ordinance Code Section 3.28.120.

For purposes of this Section, Automatic Resignation, “contacting his or her supervisor” shall mean personal voice conversation either over the phone or in person with the employee’s immediate on-duty supervisor or designee, or if that person is unavailable, then he or she shall speak with the available Juvenile Hall Manager. The employee may not leave a voice mail, send an email, text message via a mobile phone, or fax a document to meet the requirement of this section.

Additionally, the department shall reasonably attempt to contact the employee absent without authorization at the listed contact phone number provided by the employee during the seventy-two (72) hour period before automatic resignation is effective.

12.) PERFORMANCE EVALUATIONS

Performance evaluations should be completed for regular and full-time employees on a yearly basis, but shall not cover work performed over a time period greater than one (1) year and will normally be tied to the employee’s salary anniversary date, even if the employee is at the top step of the salary schedule. If the due date is not met, the performance evaluation shall still be completed by the supervisor.

Performance evaluations should include written comments. Any performance evaluation containing “Excellent,” “Unsatisfactory,” or “Needs improvement” ratings must contain written comments supporting the ratings. The individual completing the evaluation is responsible for advising the employee of:

- A) Any work-related deficiency shall be brought to the attention of the employee as soon as possible;
- B) Remedies, if applicable to correct such deficiency;
- C) Provide reasonable assistance to help the employee overcome such deficiency; and
- D) Provide prompt counseling between formal performance evaluations for employee’s performance below expectations.

Performance evaluations shall have a place for the employee’s signature and date. An employee’s signature shall indicate that he/she has received a copy of and read the evaluation. No evaluation shall be placed in an employee’s file before the employee has received a copy. Employees may attach written comments or respond to issues addressed in the evaluation. Comments or responses shall be placed in the employee’s personnel file with a copy given to the supervisor by the employee.

13.) MAXIMUM SUSPENSION

No disciplinary suspension shall be imposed for any period exceeding forty-five (45) days and the order of suspension shall expressly state, in addition to the reasons therefor, the date of the commencement and expiration of suspension. (Ord. CS 107 § 1, 1985: prior code § 2-249).

14.) DISCIPLINE AND GRIEVANCE PROCEDURE

The parties recognize the County practices progressive discipline. The parties agree that the employee has a right to Union representation at an investigatory interview that the employee reasonably believes may lead to disciplinary action.

A) 3.28.010 Causes for discipline

An employee in the classified service who has permanent status shall be subject to the disciplinary action pursuant to this chapter. Each of the following shall constitute cause for discipline:

- a) Omission or willful misrepresentation of a material fact or other fraud in securing employment;
- b) Incompetence;
- c) Inefficiency;
- d) Inexcusable neglect of duties;
- e) Insubordination;
- f) Dishonesty;
- g) Improper use of drugs, including (1) drunkenness on duty, (2) use of drugs while on duty, (3) incapacitation for proper performance of duties by prior use of drugs. The term "drugs" shall mean controlled substances as defined in Division 10 (commencing with Section 11000) of the California Health and Safety Code, and shall also mean alcohol;
- h) Unexcused absence from duty, including but not limited to, participation in unlawful strikes or other job actions, such as sick-ins or slow-downs;
- i) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this subsection;
- j) Discourteous treatment of the public or other employees;
- k) Willful disobedience;
- l) Misuse of County property;
- m) Inconsistent, incompatible or conflicting employment, activity or enterprise;
- n) Violation of a departmental rule;
- o) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the employee's department or employment. (Prior code § 2-240).

B) 3.28.020 Notice of intended discipline.

Prior to discharging, suspending or reducing a permanent employee in rank or compensation for disciplinary purposes, the Department Head or designee shall:

- a) Review the proposed action with the Personnel Director;
- b) Prepare and serve a written notice reviewed by County Counsel to inform the employee of the intended action, the reasons therefor, and the right to respond to the Department Head intending to impose the discipline. The notice shall identify the materials on which the action is based with sufficient certainty as to permit inspection of them by the employee. A copy of the intended charges be attached to the notice;
- c) The employee, given notice of intended disciplinary action, may within seven (7) days after service of the notice, respond to the Department Head either orally or in writing. The employee shall not be entitled to a formal hearing with examination of witnesses but he/she may present statements by himself/herself, written statements of any witness and other documentary material. He/she may be represented by another in presenting his/her response. The Department Head shall fairly and impartially consider the employee's response and shall thereafter: (1) impose the intended disciplinary action; (2) notify the employee that the intended disciplinary action will not be imposed; or (3) amend the charges. In the event the Department Head substantially amends the intended charges or punishment, he/she shall be given another notice as provided in subsection B of this section. (Ord. CS 557 § 39, 1994; prior code § 2-241).

C) 3.28.030 Notice of action and appeal

In the event of the Department Head determines to discharge, suspend or reduce in rank or compensation a permanent employee after completing the procedures provided in Section 3.28.020, he/she shall serve upon the employee an order in writing stating (A) the nature of the disciplinary action, (B) the effective date of the action, (C) the causes therefor, (D) the specific acts or omissions upon which the causes are based, stated in ordinary and concise language and (E) the right of the employee to appeal. The employee acted against may, within seven (7) days after service of the order, appeal the action of the Department Head. If the employee fails to appeal within the time specified, or subsequently withdraws his/her appeal; the punitive action taken by the Department Head shall be final. An appeal shall be in writing, shall be filed with the Personnel Director and shall contain an answer to each charge in the order. The answer shall include any objections the employee may have as to the form or substance of the order or the procedures followed by the Department Head. The Personnel Director shall forthwith transmit the order and appeal to the employee disciplinary proceedings hearing board for hearing. The hearing board shall, within a reasonable time of the filing of the appeal, commence the hearing thereof, and shall notify the

interested parties of the time and place of hearing at least five (5) days in advance thereof. (Prior code § 2-242).

D) 3.28.040 Amendment of order

At any time before the hearing, the Department Head may file with the employee disciplinary proceedings hearing board an amended or supplemental order, which shall be served upon the employee. The hearing board shall afford the employee a reasonable opportunity to prepare his defense to the amended or supplemental order but he shall not be entitled to file a further answer unless the hearing board in its discretion so orders. Any new charges shall be deemed denied by the employee. At any time before the matter is submitted for decision, the hearing board may order or permit amendments to the order or answer. The hearing board may offer amendment of the order after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he/she will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence. If such prejudice is shown, the hearing board shall reopen the case to permit the introduction of additional evidence. (Prior code § 2-243).

E) 3.28.050 Notice or order service

Whenever reference is made in this chapter to service of any notice or order, such service shall be accomplished either by handing a copy thereof to the employee or by mailing a copy to the employee at his/her last known address by registered or certified mail. It shall be presumed that a properly addressed letter is served on the day following the day on which the letter was mailed. The Department Head shall promptly furnish the Personnel Director with a copy of each notice or order and a statement showing by whom, the manner and the date the notice or order was served. (Prior code § 2-244).

F) 3.28.060 Hearing board and hearing officer

The Chairman of the Board of Supervisors shall appoint a three (3) member disciplinary proceedings hearing board to hear appeals pursuant to this chapter. The hearing board shall consist of a member of the State Bar of California, who shall act as chairman, a County Department Head and an employee. Proposed members shall be selected as follows:

The Personnel Director shall submit the name of a member of the State Bar of California who shall not be a member of the County service.

The Personnel Director shall submit the name of a head of a department of the County.

Upon the request of the Personnel Director, each recognized employee organization shall, within five (5) working days, nominate a permanent full-time employee of the County, and the Personnel Director shall submit the name of the employee chosen by lot, provided that if a recognized employee organization fails to nominate an employee, the Personnel Director shall do so. In the event the appellant is from the same department as a member of the appeal board, the Personnel Director shall submit another name for appointment to replace such member for that case only. The term of each member shall end on December 31st of each year, but a member shall continue to act on any appeal filed before that date. Two members of the appeal board shall constitute a quorum, provided, however, that the Personnel Director or the chairman of the appeal board may request the temporary appointment of a member to replace a member who is or will be unavailable on the scheduled hearing date.

Upon written agreement of the County and the appellant made at any time before the hearing board is convened, the appeal shall be heard and decided by the chairman of the appeal board as a hearing officer. The rules and procedures set forth in this chapter for hearing by a hearing board shall also apply to a hearing by a hearing officer. (Prior code § 2-245).

G) 3.28.070 Hearing rules

At a hearing, both the appealing employee and the Department Head whose action is reviewed shall have the right to be heard publicly, to be represented by counsel and to present evidentiary facts. The parties may agree to a hearing closed to the public, and the hearing board may at any time exclude any person who may be a witness in the case under consideration. The hearing shall be informal and the hearing board shall not be bound by any of the rules of evidence governing trial procedure in state courts. In arriving at a decision, the hearing board may consider any prior County disciplinary action including any letters of reprimand filed with the County Chief Executive Office. The hearing board shall make an official decision either affirming, modifying, or revoking the order. The decision shall contain findings of fact which may be stated in the language of the pleadings or be referenced thereto. A copy of the written decision shall be transmitted to the Department Head and the Personnel Director. The Personnel Director shall serve a copy of the decision upon the employee, and shall notify the employee that the time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6. A copy of the decision shall be placed in the employee's personal history file. The decision of the hearing board shall be final. (Prior code § 2-246).

H) 3.28.080 Immediate Termination

Notwithstanding the provisions of Section 3.28.020, the Department Head may discharge a permanent employee without prior notice if immediate termination is essential to avert harm to the County or to the public. In such case, the notice of

discharge shall inform the employee of his/her right to reconsideration by the Department Head who shall follow the procedures of Section 3.28.020, and where appropriate shall follow the procedures of Section 3.28.030. (Prior code § 2-247).

I) 3.28.090 Measures pending final determination

The Department Head may, while intended disciplinary action is pending, and with prior review by the Personnel Director and the Chief Executive Officer, take one (1) or more of the following measures:

- a) Defer the imposition of the punishment until the final order of the hearing board;
- b) Place the employee on leave of absence with compensation;
- c) With the concurrence of any Department Head involved, require the employee to perform such duties as may be assigned in the same or another County department with no reduction in compensation. Reassignment without the consent of the employee shall not exceed a period of ninety (90) days if accusations against the employee are under investigation, but such assignment may continue until the action becomes final if the employee has been given notice of discharge;

d) Suspend the employee without pay if accusations against the employee are under investigation, and the accusations are such that, if true, immediate removal is essential to avert harm to the County or to the public, provided: (1) the employee shall be accorded the rights provided by this chapter, and may appeal the order of suspension to the hearing board at any time during the period of suspension; (2) the period of suspension without compensation shall not exceed forty-five (45) days; (3) that in the event the employee is not served with notice of intended charges during the period of suspension, the employee shall be reinstated in County service as of the initial date of suspension; (4) that in the event the punitive action taken against the employee does not result in termination of employment, the employee shall be restored to County service for the period of the preliminary suspension and any disciplinary suspension or reduction in rank or compensation ordered or approved by the hearing board shall commence on or after the date of the punitive action by the Department Head. The Department Head may discontinue an employee's leave of absence with compensation or his suspension without compensation giving the employee forty-eight (48) hours' notice in writing to return to duty. (Ord. CS 557 § 40, 1994; prior code § 2-248).

J) 3.28.100 Maximum suspension

No disciplinary suspension shall be imposed for any period exceeding forty-five (45) days and the order of suspension shall expressly state, in addition to the

reasons therefor, the date of the commencement and expiration of suspension. (Ord. CS 107 § 1, 1985: prior code § 2-249).

K) 3.28.110 Hearing Procedure

The hearing shall proceed as follows:

- a) The hearing board may adopt rules of procedure. The Personnel Director shall be ex officio secretary to the hearing board, and the Personnel Director shall be authorized to issue subpoenas, make necessary orders and administer oaths in connection with the proceedings of the hearing board. Any person failing to obey a subpoena, or subpoena duces tecum, or to be sworn and testify, shall be deemed to be in contempt of the hearing board and the hearing board shall have the power to take such proceedings and impose such punishment thereof as may be taken by the Board of Supervisors pursuant to Title 3, Division 2, Part 2, Chapter 1, Article 9 (Sections 25170 through 25176) of the Government Code.
- b) The Personnel Director shall cause the proceedings to be recorded by any method he finds to be appropriate. Any person may purchase all or part of the record provided the request therefor is made within ninety (90) days of the date of service of the final decision of the employee, the Department Head or the Personnel Director shall have a right to purchase a transcript of a hearing held in closed session. A request for the record shall be accompanied by payment of the estimated cost thereof as determined by the Personnel Director, and the person making the request shall be obligated to pay the full cost prior to delivery of the transcript.
- c) The burden of proof shall be on the head of the Department issuing the disciplinary order. The quantum of proof required to sustain such action shall be preponderance of the evidence.
- d) At the hearing the employee may be examined under Section 776 of the California Evidence Code. Failure of the employee to appear at the hearing or failure to testify if called as a witness, shall be deemed a withdrawal of the employee's appeal and the action of the Department Head shall be final.
- e) The hearing board may affirm or revoke the action taken by the Department Head or may modify such action to a less severe punishment. The hearing board may order the employee returned to his/her position either as of the date of the punitive action by the Department Head or as of such later date as the hearing board may specify. If the hearing board shall revoke or modify the order of the Department Head, the appealing employee shall be granted forthwith all rights and privileges pertaining to County service in accordance with the order of the hearing board. (Ord. CS 557 § 41, 1994; prior code § 2-250).

L) 3.28.120 Petition to set aside resignation

In the event a person claims his resignation was given by reason of mistake, fraud, duress, undue influence, or that for any other reason it was not his/her free and voluntary act, he/she may submit a written petition to the Personnel Director to set aside his/her resignation and such petition shall be treated in the same manner as an appeal from an order for discharge; provided, however, that no such petition shall be considered by the Hearing Board unless it is filed with the Personnel Director within thirty (30) days after (A) the last date upon which services to the County are rendered; or (B) the date the resignation is tendered to the appointing power, whichever is later. (Prior code § 2-252).

M) Binding Arbitration by an Outside Arbitrator in Lieu of Section 3.28.060

Hearing Board and Hearing Officers of the Stanislaus County Discipline Ordinance:

1) Submission of the Disciplinary Appeal to the Hearing Board or Hearing Officer

The parties agree that the employee and the recognized employee organization may elect to have the disciplinary matter heard by the current discipline appeals board as provided by Stanislaus County Code Section 3.28.060, Hearing Board and hearing officers in lieu of binding arbitration by an outside Arbitrator. Should the employee and the recognized employee organization elect to utilize the hearing board or hearing officer as provided by Chapter 3.28.060 of the Stanislaus County Code, the decision of the Hearing Board or hearing officer shall be final and the employee shall forego the option of arbitration by an outside Arbitrator. The employee organization agrees to assume half of the cost of the hearing officer.

In the event that an employee chooses to represent himself/herself, or arranges for representation independent of the recognized employee organization, the cost of the hearing officer shall be waived. Binding arbitration shall not be an option for an employee who is not represented or seeks representation outside of the recognized employee organization.

2) Submission of the Disciplinary Appeal to Binding Arbitration

(a) Notice of Action and Appeal - In the event the Department Head determines to discharge, suspend or reduce in rank or compensation a permanent employee after completing the procedures provided in Section 3.28.020, he/she shall serve upon the employee an order in writing stating (A) the nature of the disciplinary action, (B) the effective date of the action, (C) the causes therefore, (D) the specific acts or omissions upon which the causes are based, stated in ordinary and concise language, and

(E) the right of the employee to appeal. The employee acted against may, within seven (7) days of service of the order, appeal the action of the Department Head. If the employee fails to appeal within the time specified, or subsequently withdraws his/her appeal; the punitive action taken by the Department Head shall be final.

An appeal shall be in writing, shall be filed with the Director of Personnel and shall contain a complete answer to each charge set forth in the order. The answer shall include any objections the employee may have as to the form or substance of the order or the procedures followed by the Department Head.

The recognized employee organization, on behalf of the represented employee, may, within fourteen (14) calendar days of service of the order, request in writing to the Director of Personnel the use of binding arbitration in lieu of the discipline appeals board. Should the request for appeal be filed within the seven- (7) calendar day period, and the request for binding arbitration not be submitted to the Director of Personnel within the fourteen (14) calendar day period, the matter will be scheduled and heard by the discipline appeals board.

- (b) Selection of Arbitrator - If the recognized employee organization elects to have the disciplinary proceeding heard by an Arbitrator, the Arbitrator may be selected by mutual agreement between the Director of Personnel and the employee organization. However, should the parties fail to mutually agree on an Arbitrator, they shall make a joint request of the State Conciliation and Mediation Service for a list of five (5)- qualified Arbitrators. The Arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one (1) name remains, and that person shall serve as Arbitrator.

The Director of Personnel shall forthwith transmit the order and appeal to the Arbitrator for hearing. The Arbitrator shall, within a reasonable time of the filing of the appeal, commence the hearing thereof, and the Director of Personnel shall notify the interested parties of the time and place of hearing at least five (5) days in advance thereof.

- (c) Arbitration Issues - The parties shall endeavor to exchange summaries of evidence, and a list of witnesses to be used by each side, shall be submitted to each other and the Arbitrator no less than five (5) working days prior to the arbitration hearing.
- (d) Arbitration Expenses Shared - The cost of employing the Arbitrator and the court reporter for all discharges, excluding the transcript, shall be borne equally by both parties to the arbitration. The cost of the transcript shall be covered as provided by Stanislaus County Code Section 3.28.110,

subsection A, Hearing Procedure. All other costs such as, but not limited to, attorney's fees shall be borne by the party incurring that cost. If both parties agree to the use of a court reporter other than for discharges, or the Arbitrator requires the use of a court reporter, the cost of the court reporter shall be shared equally.

- (e) Duty of Arbitrator - The duties of the Arbitrator shall be those of the hearing board as referred to throughout the Stanislaus County Code, including, but not limited to, Sections 3.28.070 Hearing rules' and 3.28.110 Hearing Procedure.
- (f) Arbitrator's Decision Due - Unless the parties agree otherwise, the Arbitrator shall render the decision in writing within thirty (30) days following the close of the hearing. A copy of the written decision shall contain findings of fact which may be stated in the language of the pleadings or be referenced thereto. If requested by either party, the decision shall be accompanied by findings of fact and conclusions of law.

A copy of the written decision shall be transmitted to the Department Head and the Director of Personnel. The Director of Personnel shall cause to be served a copy of the decision upon the employee. Service by mail at the employee's last known address shall be sufficient for purposes of this section. A copy of the decision shall be placed in the employee's personal history file. The decision of the Arbitrator shall be final and binding on both parties.

- (g) Non-Employee Organization Representation - In the event that an employee chooses to represent himself/herself, or arranges for representation independent of the recognized employee organization, the cost of the hearing officer shall be waived. Binding arbitration shall not be an option for an employee who is not represented or seeks representation outside of the recognized employee organization.

15.) GRIEVANCE PROCEDURE

Procedure for Settling Grievances

- A) Intent: It is the intent of this provision of the Memorandum of Understanding to provide orderly and equitable procedures for the presentation and resolution of misunderstandings and disputes between the County and its employees. It is further intended that the exercises of these rights in good faith be available to all County employees, (except as herein provided) without fear of reprisal or coercion.

B) Definitions:

- 1) Grievance - A grievance is defined as an employee initiated allegation that a term or condition of employment established by State law, County ordinance, resolution, Memorandum of Understanding or written departmental policy is being violated provided, however, that such term or condition of employment is not subject to the discretion of the County or is not a subject outside of the scope of representation as defined in Section 3500 et set of the Government Code or the County's Employee Relations Ordinance. This grievance procedure shall not apply to matters within the scope of applicable Federal or State grievance procedures.
- 2) Complaint - A complaint is defined as an employee initiated allegation or dispute concerning terms and conditions of employment which are not grievances as defined above. Complaints shall be handled as herein provided except that a complaint may not be appealed to the Chief Executive Officer.

C) Exclusion of Disciplinary Appeals and Equal Employment Opportunity Grievances - Appeals from disciplinary actions or grievances alleging violation of the County's policies of equal employment opportunity or affirmative action or involving allegations of employment discrimination will be handled pursuant to the County's Equal Employment Opportunity Grievance Procedure.

D) Representation - In presenting and resolving grievances, employees may represent themselves on County time, or may designate a representative of their own choosing. Costs associated with such representation, if any, will be borne by the employee.

E) Time Limits - The time limits herein specified may be extended to a definite date by mutual consent of the parties. Failure to meet time limits by the employee shall constitute withdrawal of the grievance. Such failure by the County shall entitle the employee to request the next step in the procedure.

F) Grievance Procedure Steps:

- 1) Informal Discussion - Every effort should be made to settle grievances at the lowest level of supervision possible. The employee should advise his/her immediate supervisors that a grievance is present and explain it to the immediate supervisor no later than fifteen (15) working days after he/she becomes or should become aware of the issue. The immediate supervisor shall thereafter hear, and decide the matter informing the employee of the decision orally within seven (7) working days.
- 2) Written Grievances - If the grievance is not resolved through informal discussion, the employee may within seven (7) working days from the date of the supervisor's informal decision, submit a written grievance to said supervisor with a copy submitted to the Department Head and the Chief

Executive Officer. Such a written grievance, signed by the employee shall set forth the facts at issue, the relief sought and the time of occurrence of an alleged incident or violations precipitating the grievance. The supervisor shall thereafter further investigate and consider the grievance and deliver written decision to the employee within seven (7) working days after receiving the grievance.

- 3) Department Head Review - If the grievance is not resolved by the written decision of the supervisor, the employee may request in writing within seven (7) working days after delivery of prior written decision that the grievance be reviewed by the Department Head. If such a request is received, the Department Head or his/her designee shall conduct such meeting(s) with the employee, informal hearings or investigations as are appropriate in his/her judgement and deliver to the employee a written decision within seven (7) working days after receipt of the review request.
- 4) Advisory Opinion of Chief Executive Officer - At any point in this procedure after filing a written grievance or complaint, the Chief Executive Officer may offer, or either party may request, the non-binding advisory opinion verbally or in writing of the Chief Executive Officer concerning resolution of the grievance or complaint.
- 5) Grievance Appeal - If the employee wishes to appeal the Department Head's decision, he may do so, in writing to the Chief Executive Officer within seven (7) working days after receipt of the Department Head's decision. The Chief Executive Officer shall thereafter conduct an informal hearing, and any other meetings or investigations as are appropriate in his judgement. Upon the request of either party or motion of the Chief Executive Officer, such hearing and other investigations shall be conducted by a designee(s) selected by the Chief Executive Officer with the consent of the parties. The written decision of the Chief Executive Officer shall be delivered to the employee within fifteen (15) working days after receipt of the appeal. The decision of the Chief Executive Officer shall be the final step in the County's procedure for settling grievances except in the case of an elected Department Head, the decision of the Chief Executive Officer may be appealed by the Department Head to the Board of Supervisors within seven (7) working days after receipt of the decision.

16.) BINDING ARBITRATION

It is the intent of this provision of the Memorandum of Understanding to provide orderly and equitable procedures for the presentation and resolution of misunderstandings and disputes between the County and its employees. It is further intended that the exercises of these rights in good faith be available to all County employees, (except as herein provided) without fear of reprisal or coercion.

A.) Definitions:

- 1) Grievance - A grievance is defined as an employee initiated allegation that a term or condition of employment established by State Law, County Ordinance, Resolution, Memorandum of Understanding, or Written Departmental Policy is being violated provided, however, that such term or condition of employment is not subject to the discretion of the County or is not a subject outside of the scope of representation as defined in Section 3500 et. seq. of the Government Code or the County's Employee Relations Ordinance. This grievance procedure shall not apply to matters within the scope of applicable Federal or State grievance procedures.
- 2) Complaints - A complaint is defined as an employee initiated allegation or dispute concerning terms and conditions of employment which are not grievances as defined above. Complaints shall be handled as herein provided except that a complaint may not be appealed to the Chief Executive Officer or to arbitration.
- 3) Grievances - Appeals from disciplinary actions or grievances alleging violation of the County's policies of equal employment opportunity or affirmative action or involving allegations of employment discrimination will be handled pursuant to the County's Equal Employment Opportunity Grievance Procedure and does not include Binding Arbitration as the final step in the procedure.
- 4) Representation - In presenting and resolving grievances, employees may represent themselves on County time, within reason, or may designate a representative of their own choosing. Costs associated with such representation, if any, will be borne by the employee.
- 5) Time Limits - The time limits herein specified may be extended to a definite date by mutual consent of the parties. Failure to meet time limits by the employee shall constitute withdrawal of the grievance. Such failure by the County shall entitle the employee to request the next step in the procedure.

B) Grievance Procedure Steps:

- 1) Informal Discussion - Every effort should be made to settle grievances at the lowest level of supervision possible. The employee should advise his/her immediate supervisor that a grievance is present and explain it to the immediate supervisor no later than fifteen (15) working days after he/she becomes or should become aware of the issue. The immediate supervisor shall thereafter hear, and decide the matter informing the employee of the decision orally within seven (7) working days.

- 2) Written Grievances - If the grievance is not resolved through informal discussion, the employee may within seven (7) working days from the date of the supervisor's informal decision, submit a written grievance to said supervisor with a copy submitted to the Department Head and the Director of Personnel. Such a written grievance, signed by the employee shall set forth the facts at issue, the relief sought and time of occurrence of any alleged incident or violations precipitating the grievance. The supervisor shall thereafter further investigate and consider the grievance and deliver a written decision to the employee within seven (7) working days after receiving the grievance.
- 3) Department Head Review - If the grievance is not resolved by the written decision of the supervisor, the employee may request in writing within seven (7) working days after delivery of prior written decision that the grievance be reviewed by the Department Head. If such a request is received, the Department Head or his/her designee shall conduct such meeting(s) with the employee, informal hearings or investigations as are appropriate in his/her judgment and deliver to the employee a written decision within seven (7) working days after receipt of the review request.
- 4) Advisory Opinion of Director of Personnel - At any point in this procedure after filing a written grievance or complaint, the Director of Personnel may offer, or either party may request, the non-binding advisory opinion verbally or in writing to the Director of Personnel concerning resolution of the grievance or complaint.

C) Grievance Appeal

If the employee wishes to appeal the Department Head's decision, he/she shall do so in writing to the Director of Personnel within ten (10) working days after receipt of the Department Head's decision. The employee may elect to submit the grievance for final decision to the Chief Executive Officer. If the employee is represented by the recognized employee representative of the assigned bargaining unit, through the elected representative only, the grievance may be submitted for Binding Arbitration. Within the specified time period the employee and/or the elected representative as specified herein, shall specify in writing to the Director of Personnel whether the grievance should be submitted to the Chief Executive Officer or Binding Arbitration. The decision to utilize Binding Arbitration shall be the prerogative of the recognized employee organization only, with the employee's concurrence; access to only one (1) of the two (2) procedures for the purpose of resolving the alleged grievance shall be given the employee(s); the option of procedure utilized shall be binding and irrevocable upon the employee and the employee's recognized employee organization; and the procedure utilized shall be limited to grievances only as

defined in Section II, Subsection A "Definitions, Grievance" herein, excluding complaints.

D) Submission of the Grievance Appeal to the Chief Executive Officer

If the employee wishes to appeal the Department Head's decision to the Chief Executive Officer, in lieu of Binding Arbitration, the employee shall do so in writing to the Director of Personnel specifically stating this option, within ten (10) working days after receipt of the Department Head's decision. The Chief Executive Officer or his/her designee shall thereafter conduct an informal hearing, and any other meetings or investigations as are appropriate in his/her judgment. The written decision of the Chief Executive Officer or his/her designee shall be delivered to the employee within fifteen (15) working days after receipt of the appeal. The decision of the Chief Executive Officer or his/her designee shall be the final step in the County's procedure for settling grievances. For the purpose of this section, the Director of Personnel shall not serve as the designee if the Director of Personnel has rendered an advisory opinion concerning the grievance. This does not preclude the Chief Executive Officer from utilizing the advisory opinion of the Director of Personnel.

E) Submission of the Grievance Appeal to Binding Arbitration

If the employee wishes to appeal the Department Head's decision and elects to not refer the matter to the Chief Executive Officer for final resolution, the employee may through the recognized representative of the employee's assigned bargaining unit only, elect Binding Arbitration by writing to the Director of Personnel within ten (10) working days after receipt of the Department Head's decision. Prior to the selection of the Arbitrator and submission of the grievance for hearing by an Arbitrator, the Director of Personnel shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the parties. The Director of Personnel shall have ten (10) working days in which to review and seek amicable resolution of the grievance.

F) Selection of Arbitrator

If the required steps of the grievance procedure have been exhausted and the grievance remains unresolved and is subject to arbitration, the Arbitrator may be selected by mutual agreement between the Director of Personnel and the grievant's recognized representative of the assigned bargaining unit. However, should the parties fail to mutually agree on an Arbitrator they shall make a joint request of the State Conciliation and Mediation Service for a list of five (5) qualified Arbitrators. The Arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one (1) name remains, and that person shall serve as Arbitrator.

G) Arbitration Issues

The parties shall, within fifteen (15) working days following the informal review of the Director of Personnel, exchange in writing their understanding of the questions to be submitted to arbitration. Thereafter, the parties to the arbitration shall use their best efforts to exchange a written summary of the evidence they intend to offer and to reach agreement on and reduce to writing the question or questions to be submitted to arbitration. The agreed upon question or questions, if agreement is reached, together with the exchanged summaries of evidence and a list of witnesses to be used by each side, shall be submitted to each other and the Arbitrator no later than five (5) working days prior to the arbitration hearing.

H) Arbitration Expenses Shares

The cost of employing the Arbitrator shall be borne equally by the parties to the arbitration. All other costs such as, but not limited to, attorney's fees shall be borne only by the party incurring that cost. If both parties agree to the use of a Court Reporter, or if the Arbitrator requires the use of a Court Reporter, the cost of the Court Reporter shall be shared equally. Absent mutual agreement, the side requesting use of the Court Reporter shall absorb the cost. The cost of the transcript, if one is prepared, shall be absorbed by the party requesting the transcript, unless both parties mutually agree to share the cost of the transcript. If the Arbitrator requests that a copy of the transcript be prepared both parties shall equally share the cost of the transcript.

I) Duty of Arbitrator

The Arbitrator shall conduct an informal hearing, and any other meetings or investigations as are appropriate in his/her judgment. The Arbitrator shall not have the right to amend, modify, nullify, ignore, add to, or subtract from the provisions of the Memorandum of Understanding, County Ordinance, Resolution, or Written Departmental Policy. He/she shall consider and make a decision with respect to only the specific issue(s) submitted, and shall not have authority to make a decision on any other issue not so submitted. In the event, the Arbitrator finds a violation of the Memorandum of Understanding, applicable State or Federal law, County Ordinance, Board Resolution or written departmental policy, he/she shall decide the appropriate resolution. The Arbitrator shall have no authority to substitute his/her judgment for that of the County as to any matter within the County's discretion. The decision and award of the Arbitrator shall be based solely upon the evidence and arguments presented to the Arbitrator by the respective parties. Proposals to add to or change the Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this Section.

J) Binding Decision

The decision of the Arbitrator shall be binding upon the employee, the employee's duly recognized employee organization and the County. Based upon significant financial impact of the Arbitrator's decision upon the County, within fifteen (15) working days of receipt of the Arbitrator's decision the County may request that the Union meet with the County to discuss the financial impact of the decision. The Union agrees to meet and consult with the County over the impact upon the County of the decision. Absent agreement between the parties to modify or mitigate the impact of the Arbitrator's decision, the decision of the Arbitrator shall be final and binding on the parties.

K) Arbitrator's Decision Due

Unless the parties agree otherwise, the Arbitrator shall render the decision in writing within thirty (30) days following the close of the hearing to the Director of Personnel. The Director of Personnel shall immediately provide a copy of the decision to the employee, the employee's duly elected representative and the Department Head. If requested by either party, the decision shall be accompanied by findings of fact and conclusions of law.

L) Non-Employee Organization Representation

In the event that an employee chooses to represent himself/herself, or arranges for representation independent of the recognized employee organization, arbitration as provided herein shall not be available to the employee.

17) REDUCTION-IN-FORCE POLICY

Whenever in the judgement of the Board of Supervisors it becomes necessary in the interest of economy or because the necessity for a position no longer exists, the Board of Supervisors may abolish a position or classification, and if necessary reduce personnel by laying off employees without the filing of disciplinary charges and without granting the employee the right of appeal except as accorded in these provisions. In reducing the number of employees every effort will be made to avoid displacing existing employees by allowing voluntary demotion or transfer to vacant positions. In laying off employees in the Classified Service, the order of separation shall be based upon seniority as herein specified.

In the event that a Reduction-In-Force action is to be recommended during the period of this agreement, a good faith effort will be made by the County to notify the Union, and meet upon the Union's request to discuss alternatives to the Reduction-In-Force action including voluntary time-off, approval of leave of absence requests, and voluntary lay-offs. The County will do what it reasonably can to make available to employees who are laid off retraining opportunities as available through Federal or State job training programs or other available County programs.

A) Order of Separation

Employees in the same class shall be separated considering seniority and type of appointment with the least senior employee in any category of appointment being the first separated and with tied seniority scores broken as provided herein. The sequence of appointment types shall be:

- 1) Provisional
- 2) Extra-Help/Part-Time
- 3) Trainee
- 4) Regular Part-Time
- 5) Regular Full-Time

Within regular part-time and regular full-time appointments, employees with probationary status shall be laid off before employees with permanent status in the same class regardless of relative seniority.

B) Seniority

Employee's seniority will be based on the amount of total continuous service with the County. In an affected classification, that employee with the least total continuous service shall be the first separated from the affected department except as otherwise provided herein. In cases of equal seniority among employees, the order of separation shall be determined by the Chief Executive Officer based on a review of relative performance efficiency as evidenced in performance evaluations and such relevant materials as may be submitted by the Department and affected employee in an informal hearing.

C) Performance

Notwithstanding the above, service time credit for the purpose of determining seniority shall not include employment during any periods between completion of a performance evaluation evidencing an overall rating below satisfactory and completion of a subsequent evaluation with satisfactory or better overall rating.

D) Written Notice

Written notice of layoff shall be served on affected employees in person or by a certified letter mailed to the last address on file with the Chief Executive Officer. Notice will be served or mailed at least twenty-one (21) calendar days prior to the effective date of the separation. Notice shall be deemed served upon return of a delivery receipt or receipt showing attempted delivery.

E) Demotion in Lieu of Layoff

In lieu of being laid off, an employee may elect to voluntarily demote within the same department to a lower paid classification in the same series or to a classification previously held in the County. Less senior employees who may be displaced as a result of demotion actions shall in turn be subject to the provisions of this section. In order to exercise these options, the employee affected must so advise the Chief Executive Office in writing no later than seven (7) working days after receiving notice of layoff.

F) Limited Bumping Across Department Lines of Probationary Employees

Employees may bump across department lines in one circumstance. A permanent employee who has been identified in a department as the employee to be laid off, shall have the right to transfer and/or demote to a position filled by a less senior, probationary employee in another County department, if the position is in the same class or a lower class within the series and bargaining unit, and if the less senior employee is in his/her initial hire probationary period. The employee electing to "bump" to the new County department may be required to serve Department Probation for a period not to exceed six (6) months. The employee shall maintain his or her re-employment rights within the Department from which he or she transferred and/or demoted.

G) Transfer in Lieu of Layoff

In lieu of being laid off, an employee may request to voluntarily transfer or demote to a vacant position in another department in the same or comparable classification or to a classification previously held. Such requests require approval by the gaining Department Head.

H) Seniority List

The County agrees to provide the Labor Representative of the Union with the seniority list for each classification in the bargaining unit affected by Reduction-In-Force actions, prior to the time the notice of layoff is submitted to the affected bargaining unit employees.

The Union agrees to take all due precautions to insure that the information on the list will be used for no purpose other than Union representation of employees affected by a Reduction-In-Force action and will not be used in any manner so as to harm the confidentiality or right of privacy of members of the bargaining unit.

The Union agrees to indemnify, defend and hold harmless Stanislaus County, its employees and agents against damages, or claims of whatever nature arising out off the Union's control and use of such lists.

I) Re-Employment

For a period of eighteen (18) months from the effective date of lay off no regular position in the affected classification in the department involved shall be filled without first providing employees possessing rights to re-employment with an opportunity to be rehired. Any permanent employee displaced as a result of a Reduction-In-Force action shall have the right to be re-employed to a lower paid classification in the same series, within the same department, and bargaining unit, in addition to the classification from which the employee was laid off. Re-employment lists shall be in inverse order of lay-off with the most senior employee from among those laid off rehired first. Such re-employment would be at the same salary step or the salary range assigned such classification and with the same seniority as the employee had earned at the time of lay-off. Should the employee return to a lower paid classification within the series, the employee's salary shall be determined consistent with County Code Section 3.24.050, "Salary on Demotion." Benefits paid out at the time of separation such as vacation or such leave may be bought back at employee expense. If the affected employee had permanent status at the time of the Reduction-in-Force action, that employee will be required to serve an additional six (6) month probationary period at the time of re-employment if the employee is brought back after a twelve (12) month break in service. Written notice of the re-employment opportunity shall be sent by certified mail to the last known address of the former employee by the Chief Executive Office. The former employee shall have fourteen (14) calendar days to respond to the notice.

J) Administrative Decisions

The Chief Executive Officer is authorized to render decisions resolving questions of seniority, performance, and continuous service incident to the administration of this section.

K) Special Circumstances

Employees assigned to a position on the basis of bona fide occupational qualifications may be exempted from the Reduction-in-Force list for their classification where those skills are necessary to continue the level of service rendered by the program.

L) Appeals

Persons subject to layoff or demotion under these provisions may appeal to the Chief Executive Officer any allegations of error, fraud, irregularity or bias in application of the Reduction-in-Force procedures. The affected person may, within seven (7) days after receipt of the decision by the Chief Executive Officer, appeal that decision. An appeal shall be filed with the Chief Executive Officer. The Chief Executive Officer shall forthwith transmit the appeal request to the Hearing Board established pursuant to Section 3.28.060 of the Stanislaus County Code. The Hearing Board shall within a

reasonable time from the filing of the appeal, commence the hearing thereof and shall notify the interested parties of the time and place of hearing at least five (5) days in advance hereof.

At the hearing, both the appellant and the County shall have the right to be heard publicly, to be represented by Counsel and to present evidentiary facts. The parties may agree to a hearing closed to the public and the hearing board may at any time exclude any person who may be a witness in the appeal under consideration. The hearing shall be informal and the hearing board shall not be bound by any rules of evidence governing trial procedure and state courts. The hearing board shall render a written decision, copy of which shall be transmitted to the Chief Executive Officer. The Chief Executive Officer shall serve a copy of the decision upon the appellant. The decision of the hearing board shall be final.

Relevant provisions in Chapter 3.28.060 and 3.28.070 of the Stanislaus County Code shall govern the hearing process.

17.) IRS CODE SECTIONS

- A.) Effective the start of the first pay period in March 1991, the County implemented the mandatory premium conversion plan under Section 125 of the Internal Revenue Code.
- B.) Effective in June 1991, the County conducted an open enrollment for all represented employees in the bargaining unit to participate in the Dependent Care Assistance Plan and the Medical Expense Reimbursement Program at a monthly cost to each employee. This open enrollment period was provided to cover the remainder for participation in these programs once each year for the following calendar year participation.
- C.) Implementation of IRS Code Section 414 (h2) dealing with the employer “pick up” of the employee’s retirement contribution became effective June 1, 1986.

18.) FUTURE MEET AND CONFER TOPICS

The County agrees to meet and confer upon union request during the term of the agreement on:

- 1.) Retiree Medical Trust
- 2.) Employee Schedules

19.) JOINT DISCUSSIONS CONCERNING POLICY REVISIONS

The Union agrees to meet and confer over revisions to the Personnel Policies. Should additional items be considered by the County which impact employee wages, hours and

other terms and conditions of employment, the Union shall be notified of those additional items prior to the joint discussions. These discussions will occur jointly with other employee organizations as practical.

20.) SEVERABILITY

It is not the intent of the parties hereto to violate any laws, rulings, or regulations of any governmental authority or agency having jurisdiction over the subjects of this collective bargaining agreement, and the parties hereto agree that in the event that any provisions of this agreement are finally held or determined to be illegal or void as being in contravention of any such laws rulings or regulation, such provision shall be suspended and superseded by such applicable laws, ruling or regulations and the remainder of the agreement shall remain in full force and effect unless the parts so found to be void are wholly inseparable from the remaining portion of this agreement.

21.) FULL UNDERSTANDING

It is the understanding by the parties that these provisions fully set forth the agreement of the parties in matters of wages, hours and terms and conditions of employment as herein specified. The parties agree that these understandings may be amended by subsequent negotiations between the parties as a result of meeting and conferring.