MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STANISLAUS AND COUNTY ATTORNEY'S ASSOCIATION

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 County Attorney's Association (CAA) 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:

Jim DeMartini, Chairman
Board of Supervisors

Jody Hayes
Chief Executive Officer

Jeffrey Sloan
Lead Negotiator

Tamara Thomas
Human Resources Director

Dave Harris
Assistant District Attorney

Annette Rees
Chief Deputy District Attorney

Maureen Keller
Chief Deputy Public Defender

Marissa DeAlmeida Holloway
Chief Attorney, Child Support Services

Brandi Hopkins
Senior Management Consultant

Sara Haub
Administrative Services Manager, District Attorney

Peter Ishaya
Management Consultant

FOR CAA:

Mike Eggener
Labor Representative

Brad Nix
Labor Representative

Anthony Colacito
Deputy District Attorney

Marcus Mumford
Deputy Public Defender

Shaun Wahid
Deputy Public Defender

9/17/2018
Date Signed

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1. SCOPE OF THE BARGAINING UNIT

This Agreement covers the wages, hours, terms and conditions of employment for the term of the agreement for all regular County employees in the classification series of Attorney I, II, III, IV and V. The scope of the bargaining unit as defined herein may be modified consistent with the provisions of the Stanislaus County Employee Relations Ordinance.

2. TERM OF THE AGREEMENT

This agreement shall remain in full force and effect for thirty-six (36) months commencing on July 1, 2018 and ending at midnight, June 30, 2021.

3. 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 and all of their various aspects including, but not limited to, the right to direct the work force; 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 and terms and conditions of employment.

4. CAA RIGHTS

The County recognizes the County Attorney's Association as the exclusive representative for bargaining terms and conditions of employment for the Attorney Bargaining Unit, and agrees to adhere to all meet and confer requirements as identified in California State Government Code Section 3500 (Meyers-Milias-Brown Act).

5. SAFETY AND LOSS CONTROL

County Attorney's Association (CAA) agrees to support without qualification the County's safety and loss control efforts. The parties agree to strive to reduce the number of industrial injuries among employees and maintain a safe place of employment and to encourage employees to perform their work in a safe manner. The County acknowledges its responsibility to provide safe working conditions, and agrees to provide such alternative working arrangements as become necessary, when designated work areas become unsafe or otherwise hazardous to employee

health and welfare as determined by the Stanislaus County Chief Executive Officer or his or her designee. The County recognizes that the employee's personal medical physician may recommend that for documented health reasons the employee is unable to work in a designated work area. As a means to verify the employee's physician recommendation, the County may seek additional information from the employee's physician and/or seek a second medical opinion by directing the employee to undergo a medical examination conducted by a physician of the County's choice and at County expense.

6. NON-DISCRIMINATION/FAIR REPRESENTATION

The parties agree that the provisions of this agreement shall be applied without favor or discrimination based upon protected classifications recognized by Federal and State laws and recognized in the County's Equal Opportunity/Non-Discrimination Statement approved annually by the Board of Supervisors. 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 CAA agrees to encourage its members to assist in the implementation of that program.

The CAA acknowledges its responsibility to fairly represent all employees in the bargaining unit without regard to a protected classification as described in the County's Equal Opportunity/Non-Discrimination Statement and in compliance with Federal and State laws. The County acknowledges and agrees that it shall not discriminate or take adverse action against employees on the basis of their choice of labor representation.

The County's Equal Opportunity/Non-Discrimination Statement may be found on the County's website, the Personnel Manual, or with each Department's Equal Rights Officer.

7. NO STRIKE

The CAA, its members and representatives, agree that it and they shall not engage in, authorize, sanction or support any strike, sick-in, slowdown, stoppage of work, curtailment of services, or refusal to perform the customary duties of CAA members.

8. COMPENSATION

A. Salary

1. Salary Increase

Effective after CAA ratification and BOS approval on the regular agenda but no sooner than the beginning of the first full pay period on or after July 1, 2018, the employees shall receive a base salary increase of three percent (3%). Additionally, all members of the bargaining unit will receive a one percent (1%) equity increase.

Effective the beginning of the first full pay period on or after July 1, 2019, the employees shall receive a base salary increase of three percent (3%). Additionally, all members of the bargaining unit shall receive a one percent (1%) equity increase.

Effective the beginning of the first full pay period on or after July 1, 2020 all employees shall receive a base salary increase of three percent (3%).

2. Special Accrued Leave Time

Special accrued leave will be tied to the salary deduction. With each 1% increase in salary approved by the Board of Supervisors, the number of SALT hours earned will be reduced by eight hours annually. Special accrued leave time will be reported as a separate accrual amount on each employee's payroll advice notice. Employees may go negative in their special accrued leave time balance up to a maximum of half the hours earned in that fiscal year, however, employees may not go negative in any amount greater than the employee's current vacation accrual amount. The only exception would be office closures. In the event of the Office Closure, employees would be allowed to have a negative balance up to the amount of time to be accrued during the remainder of the fiscal year. Employees may not carry a negative balance over at the end of each fiscal year. If an employee has a negative balance at the end of the fiscal year, or upon separation from employment, the County will reduce the employee's vacation accrual amount by an equal portion to balance the employee's special accrued leave time to zero.

Special accrued leave time will be utilized during any period of office closure approved by the Board of Supervisors. Office closure schedules will be communicated by July 1st of each Fiscal year for the entire Fiscal Year. With Department Head approval, employees may work during periods of approved office closures in limited circumstances to provide required County services.

Any remaining special accrued leave time not utilized during an office closure will be eligible for the employee to use as requested with the approval of their Department Head or designee. Department Heads may substitute the use of vacation with special accrued leave time as necessary, unless an employee is at the maximum level of vacation accrual.

Employees and departments are encouraged to schedule and utilize all special accrued leave time within the fiscal year in which it is accrued. Special accrued leave time not utilized will not expire (unless negotiated in the future), does not have a vested cash value and may not be cashed out during employment or at the time of termination.

Employees who reach 96 hours of accumulation shall not accrue any additional special accrued leave time although the deduction will remain in place.

Employees retiring from County service will be exempted from the salary deductions for a one year period prior to their identified date of retirement. In order to receive this exemption, retiring employees will need to sign an irrevocable notice of their retirement/resignation from County service on forms provided by the County. Employees may request Department Head approval to extend their planned retirement/resignation date, however, any approved extension of their planned retirement/resignation date will require an adjustment of salary deductions and special accrued leave time to ensure that the employee is not exempted from the salary deductions for a period greater than 12 months. Employees must be eligible for a regular service or disability retirement in order to receive this exemption.

B. Retirement

Miscellaneous Employees Tier 5 Retirement Plan. The current retirement benefit for members of the bargaining unit employed prior to January 1, 2011 is approximately two percent (2%) at age 55 (per Government Code Section 31676.14), with final average salary calculated on the employee's highest consecutive twelve (12) months of service.

Miscellaneous Employees Tier 2 Retirement Plan. The Tier 2 level of retirement benefits was reopened for all newly hired members of the bargaining unit effective January 1, 2011 through December 31, 2012. Tier 2 benefits are established per Government Code Section 316761.1 (approximately 2% at age 61 and three (3) year final average salary).

Miscellaneous Employees PEPRA Tier 6 Retirement Plan. Pursuant to California Public Employees' Pension Reform Act of 2013 (PEPRA), the County shall provide the StanCERA Tier 6 retirement plan (2% at age 62) for employees hired on or after January 1, 2013. Final compensation will be based on the average of the highest wages earned in any thirty-six (36) consecutive months.

Employees who are rehired/reinstated with the County after the implementation of Tier Two on January 1, 2011 or Tier 6 on January 1, 2013 and have met the necessary membership criteria to be placed in their former retirement tier shall be eligible for placement in that former tier. In general, current legal standards allow rehired employees the opportunity to reinstate into their former retirement tier as long as the individual member either has left his or her retirement contributions on deposit since his or her prior period of County service or elects and completes the redeposit of withdrawn retirement contributions plus applicable interest. The membership tier will depend on the employee's/member's individual circumstances and prior

retirement selections. Employee's who are rehired/reinstated with the County after January 1, 2011 are encouraged to confirm their membership status and retirement tier reinstatement options with StanCERA.

C. Deferred Compensation

The County shall continue to compensate the employee two percent (2%), of each employee's base, biweekly salary which shall be contributed by the employee to the deferred compensation plan. This compensation shall be paid by the County in recognition of the fact that the attorneys, as professionals, are not compensated for work performed beyond the regular forty-hour week.

D. Third Retirement Tier

The parties acknowledge implementation of an optional employer funded third tier in the County Miscellaneous Retirement System. The plan was optional for all employees to switch from Tier 1 or 2 on a one-time basis through October 10, 1986.

9. BI-WEEKLY PAYROLL

A bi-weekly payroll system will remain in effect during the term of this agreement.

10. GROUP INSURANCE BENEFITS

A. Group Plans Available

Employee health (medical, dental and vision) insurance benefits are negotiated under a separate meet and confer through implementation process between the County and all represented employee bargaining units. A copy of the health insurance agreement is attached to this agreement

OE3 health insurance is available for selection by union members.

B. Term Life Insurance

The parties agree that the County will provide $50,000 in term life insurance coverage for employees in the bargaining unit with premiums for such insurance paid by the County. Such insurance will include a double indemnity provision in case of accidental death.

C. Payroll Deduction for Short and Long Term Disability Insurance

1. Payroll Deduction for Mandatory Long Term Disability Insurance

The parties agree that the County withholds the disability premiums for each current and all future hired attorneys in the CAA from said

employees' biweekly gross pay, in the amount requested by the CAA, and forward the collected total to the disability insurance company designated by the CAA. Unless the CAA gives written notice of a change to the Auditor-Controller, said premiums are .0040% of gross pay rounded to the nearest penny, and the insurance company is:

Unum Life Insurance Company of America
Unum Billing
P.O. Box 406990
Atlanta, GA 30384

A local emergency contact for this plan in addition to the CAA, is:

Nicolas Bavaro
Bavaro Employee Benefits & Insurance Services
920 16th St, Suite D-1
Modesto, CA 95354
(209) 579-5523
admin@bavaroeb.com

The foregoing deduction, however, is subject to sufficient funds being due to the member of the bargaining unit for whom deductions are to be made after the County has withheld all of the legally required or employee-authorized payroll deductions.

The CAA agrees to defend, indemnify and hold harmless Stanislaus County, its employees and agents against damages and claims for whatever nature arising out of deductions from employee paychecks made for the purpose of the CAA sponsored long term disability insurance protection.

2. Payroll Deduction for Voluntary Short Term Disability Insurance

Members of the CAA may, but are not required to participate in a voluntary short-term disability plan through a designated insurance company operating in the state of California. This benefit is available to all members of the CAA pursuant to the terms of the insurance plan. The parties agree that the County will withhold the disability premiums for each current and any future hired attorneys in the CAA who ask in writing to participate in the voluntary short-term disability program. The county will withhold the disability premiums for each attorney requesting it, from said employee's gross pay, in the amounts requested by the CAA in a schedule previously provided to the Auditor-Controller, and forward the collected total to the named disability insurance company for the short-term disability plan. This deduction will be taken once a month from the first paycheck of the month. If the amounts to be taken ever change, the CAA will provide written notice of said change to the Auditor-Controller. These premiums will vary per employee based on age and salary

pursuant to the terms of the short- term disability insurance policy. The current designated company is:

Unum Life Insurance Company of America
Unum Billing
P.O. Box 406990
Atlanta, GA 30384

A local emergency contact for this plan in addition to the CAA, is:

Nicolas Bavaro
Bavaro Employee Benefits & Insurance Services
920 16th St., Suite D-1
Modesto, CA 95354
(209) 579-5523
admin@bavaroeb.com

The foregoing deduction, however is subject to sufficient funds being due to the member from the bargaining unit from deductions that are made after the County has withheld all of the legally required or employee authorized payroll deductions.

The CAA agrees to defend, indemnify, and hold harmless Stanislaus County, its employees and agents against damages and claims for whatever nature arising out of deductions from employee paychecks made for the purpose of the CAA sponsored short-term disability insurance protection.

D. Dependent Care/Medical Expense Reimbursement Program

Pursuant to I.R.S. section 125, the County offers the Dependent Care Assistance Plan and the Medical Expense Reimbursement Program to all represented employees at a monthly cost to the employee.

E. OE3 Medical Plan

Union member employees may elect to participate in the Operating Engineers Health Plan. This plan includes medical, dental and vision coverage. The parties agree that County contribution rates equivalent to the County's EPO Plan shall apply for the term of this agreement to employees choosing to participate in the group health insurance program offered by Operating Engineers.

11. PROFESSIONAL DEVELOPMENT ALLOWANCE

The parties agree that the County shall directly pay California State Bar dues and attorneys shall be reimbursed for professional development expenses related directly to the enhancement of their ability to practice as effective Attorneys.

A. Bar Dues

The County agrees to the full payment of basic bar dues for each attorney. This will be done by the County by direct payment to the California State Bar of attorney bar dues. Each attorney must provide to the department head or his or her designee, his or her individual bar due bill so that the County can submit the reimbursement to the State directly on behalf of the attorney.

B. Professional Development Reimbursement

1. CAA Attorney staff shall be entitled to an annual professional development allowance of $900.00 based upon the County's fiscal year (July 1 to June 30). It may not be cashed out. This reimbursement may only be applied to the following categories of allowable expense: (1) legal books (including electronic legal books); (2) legal software; (3) productivity software (including electronic applications for use on an electronic reader, phone or tablet); (4) conference fees and costs (including travel, lodging, meals, and tuition); (5) legal association fees and dues; (6) computer hardware and peripherals used to increase the members productivity and efficiency (e.g. E-readers, tablets, laptop/desktop computers, and monitors). Computer hardware and peripherals does not include any cellular phone hardware (smart phones, etc.), digital cameras or camcorders, GPS devices, gaming devices, data/internet service charges, etc. The above items must be within the reasonable scope of the members who work for the County.

2. Attorneys appointed on or after July 1 of each fiscal year will be entitled to a professional development allowance of $900.00 in reimbursement for the year based upon a pro-rated amount equivalent to $75.00 for each full month of service during the year. Attorneys terminating from County service will not be eligible for cash-out of any professional development money unspent as of the effective date of their termination, and shall reimburse the County for any amount of the allowance used which exceeds the monthly proportionate amount which would have been earned at the time of resignation.

   The reimbursement shall be approved by the Department Head for purposes set out in Paragraph Number 1 above. Purchases shall be reimbursed in accordance with the requirements of the Auditor-Controller as stipulated by applicable tax guidelines.

3. The $900.00 may be utilized by the attorney for reimbursement of professional development expenses as described in the first paragraph of this Section. Reimbursement will be made through the established County "claim" procedures, with the modification that the attorney may submit his or her claim for reimbursement along with the required receipts/canceled checks/credit card receipts, to the department for processing of all necessary paperwork. Attorneys may request payment reimbursements over two (2) fiscal years (for example, an Attorney purchases productivity software in the amount of $1,200.00. He/she may request $900.00 reimbursement the first fiscal year and the remaining $300.00 in the second year). Requests and approvals for carry-over reimbursements must be done at the time the original claim is submitted. Professional development reimbursement claims may be submitted anytime within the fiscal year. However, any professional development reimbursement claims incurred for the previous fiscal year must be submitted no later than the first two weeks of the new fiscal year (first two weeks of July). Claims for the previous year's reimbursements not received within this time frame will be denied, unless the claims were previously approved for the carry-over amount over $900.00 as described above. In any event, the employee may not be reimbursed for over $900.00 in each fiscal year.

4. Any law books, periodicals or other material purchased under this provision shall remain the property of the attorney. This provision shall be viewed as independent of consideration of budget accounts in the Department.

5. The County agrees to make a good faith effort to schedule and pay for the legal training mandated for each attorney, by state law. Such expenditures shall be spent at the sole discretion of the Department Head in each Department, based upon the needs of the Department, the availability of funds, and the availability of qualified training relevant to an individual's job assignment. The Department Head will attempt to equitably apportion training seminars. This paragraph of the Memorandum of Understanding is exempt from the grievance procedure.

12. LEAD ASSIGNMENT

A. Definition

Under the direction of the Chief Deputy Assistant or Department Head, provides direction and guidance to Attorneys and other staff assigned to a particular work unit. Attorneys in Lead assignment shall counsel, train and coach Attorneys. They may review and critique work as well as distribute work and delegate assignments. They may also evaluate personnel leave requests and schedule time off. The Lead Attorneys shall not initiate personnel disciplinary actions, evaluate personnel, or initiate other personnel actions. They may also perform special projects, develop policies/ procedures or

perform any other tasks directed by a Chief Deputy Assistant or Department Head.

B. Minimum Qualifications

To be eligible for the lead assignment, Attorneys must be classified a grade equal or greater than the personnel s/he leads and shall have background in the work area of the unit to be assigned.

C. Selection and Term

Attorneys in the lead assignment shall be selected on an in-house competitive basis from those qualified for the assignment. Personnel occupying this assignment shall be limited to not more than two (2) years, which can be extended based upon operational necessity and the approval of the Department Head. Personnel can be removed from the assignment at the discretion of the Chief Deputy Assistant or Department Head based upon unsatisfactory performance or the discontinued need to staff the assignment.

D. Compensation

The compensation for the lead assignment shall be at two-and-one-half percent (2.5%) of the attorney base wages. The compensation shall remain in effect for the duration of the person's assignment to the lead position.

13. REQUIRED PROFESSIONAL ASSOCIATION DUES

The County agrees to continue its past practice of providing reimbursement for members of the bargaining unit required to join and pay dues to either the California District Attorneys' Association or the California Deputy Public Defenders' Association. Reimbursement may be made not more than once in a 12-month period upon presentation of a receipt by the attorney evidencing that dues have been paid.

14. HOLIDAY/VACATION TIME PROVISIONS

A. Designated Holidays

- 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, Veterans Day
- November ____, (the Thursday designated as Thanksgiving Day)
- The day after Thanksgiving Day

- December 24, Christmas Eve, 4 hours when Christmas Eve fall on any day of the week except Saturday or Sunday
- December 25, Christmas Day

When January 1st, July 4th, November 11th or December 25th fall on a Sunday the holiday shall be observed on the following Monday.

When January 1st, July 4th, or November 11th fall on a Saturday the holiday shall be observed on the preceding Friday.

B. Working on a Holiday

Employees who work on a holiday will receive equivalent vacation time credit. Equivalent vacation time credit will also apply when a holiday falls on a Saturday for those working regular weekday schedules.

C. County Holiday Policy

The parties agree that only the immediate days of mourning or holiday declared by the President of the United States and the Governor of California will be considered County holidays in addition to the specific list of holidays already present in the County Code.

D. Vacation Accumulation Maximum

The parties agree that employees who have reached the six hundred (600) 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 six hundred (600) hour maximum. It is the policy of the County that 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 shall receive notification of accrual balances through the employee’s paycheck advice notice. Employees are encouraged to request vacation upon nearing the vacation accumulation maximum of six hundred (600) hours 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 six hundred (600) hours. If the employee does make a good faith effort to request vacation time and the request is denied by the department or if an approved vacation is canceled, the employee will 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.

E. 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:

3.08 hours per pay period (ten days a year) for the first through completion of the second year of continuous services.

4.62 hours per pay period (fifteen days a year) for the third year through and including the tenth year of continuous service.

6.16 hours per pay period (twenty days a year) for the start of the eleventh year through and including the twentieth year of continuous service.

7.70 hours per pay period (twenty-five days a year) for the twenty-first year of continuous service and thereafter until separation from County service.

In addition, employees shall earn 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 pay periods.

F. Limited Cash Conversion

Employees Not Retiring within the next 12 months:

Employees covered by this memorandum with 100 or more hours of accrued vacation recorded on the payroll records may request cash out of up to 65 hours of accrued vacation once per fiscal year. Such conversion will be granted upon approval of the Department Head and Auditor-Controller and the availability of funds in consideration of the Department's budget constraints. Requests for vacation conversion shall not be unreasonably denied.

Employees Retiring within the next 12 months:

Employees retiring from County service who sign an irrevocable notice of their retirement from County service on forms provided by the County will be eligible to cash out 65 hours in two consecutive fiscal years. The retirement notice needs to be twelve (12) months in advance of the employee's selected retirement date. Employees may request Department Head approval to extend their planned retirement date, however, any approved extension will not provide additional guaranteed vacation cash outs. Employees must be eligible for a regular service retirement in order to receive this exemption. The parties acknowledge that final average salary for retirement purposes, is determined by StanCERA, pursuant to the 1937 Act.

G. Vacation Credit for Holidays

Eight 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 hires 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 a holiday occurring during the period without pay.

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.

5. Optional (floating) holidays will continue to be credited to vacation balances at the first of the year.

H. Vacation Requests at the District Attorney's Office

Vacation requests shall be responded to by management within fifteen (15) calendar days of receipt in writing and will either be approved, denied, or placed on hold pending operational needs of the Department. If the supervisor has not responded in fifteen (15) days, or the employee wishes to have the decision reviewed, the employee will make the request for review in writing to the Assistant District Attorney and will provide the Assistant District Attorney all writings regarding the request that have been made.

15. SICK LEAVE

A. Cash-out Provisions

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 one (1) year 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 cash-out of accrued sick leave.

The maximum amount of sick leave that shall be applied toward the cash out provisions as provided for in the MOU shall be six hundred (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 three hundred (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 provisions, cash out the amount of time accrued as of the pay period ending January 6, 1995. The total sick leave accrual on this date shall become the employee's individual maximum or cap for sick leave cash-out purposes while the employee remains in the continuous employment of the County. For example, if the employee has 1000 hours on the date the cash-out maximum takes effect, he or she would be cashed out for fifty percent (50%) of 1000 hours or 500 hours upon retirement. Any time accrued and in excess of this time will not be subject to cash-out.

The purpose of this provision is to place a ceiling on the County's cash-out liability for sick leave while maintaining unlimited accrual of sick leave for catastrophic illness. Furthermore, the County agrees all sick leave accrued above the employee’s individual cash-out maximum shall be converted toward service credit upon retirement on an hour-for-hour basis.

B. Conversion of Sick Leave Cash-out Benefits to Health Insurance upon Retirement

If the County establishes a program which allows for the conversion of sick leave cash-out benefits to cover the cost of health premiums upon retirement, that program will be made available to all employees covered by this agreement. The parties agree to meet and confer prior to implementation. This program must meet the criteria of the Auditor-Controller and Internal Revenue Codes for tax purposes.

16. PAID LEAVE TIME

The parties recognize that Attorneys are required, as a condition of their employment, to frequently work more than eight (8) hours per day or forty (40) hours per week. It is further recognized that Attorneys do not receive compensation other than as provided by this agreement for homicide on-call work, either in cash or in compensatory time off for overtime. Recognizing this situation, the parties agree that in lieu of any other compensation for overtime, the Department Head shall approve paid leave time not to exceed sixty (60) hours in a twelve (12) month period effective each calendar year. The parties recognize that this leave time is not cumulative and must be taken within a twelve (12) month period or is lost. The parties further recognize that the Department Head or his or her designee has full

discretion to grant time off under this section consistent with office workload and staffing requirements. Departments will be responsible to maintain records of time off.

17. WASH TIME

Employees shall be authorized with the approval of the Department Head or designee, the ability to use a wash time policy. Wash time can be used for up to two (2) work hours and shall be done within a week (seven days) (as practical). It is recognized by the attorneys that paid leave time is granted because time worked beyond the regular work week will not be compensated nor will it always be possible to use wash time within the work schedule. Attorneys who have not worked time in excess of the work week and who are absent from work, are required to use accrued vacation or sick leave to cover the absence. Wash time shall not be unreasonably denied.

18. IMPLEMENTATION OF INTERNAL REVENUE SERVICE CODE SECTION 414 (H2)

CAA agrees to the implementation of Section 414 (H2) of the Internal Revenue Service Code.

19. ON CALL AND HOMICIDE AND ENVIRONMENTAL PROTECTION CALL BACK

A. On Call

On-Call Pay applies to all types of attorney on-call, including Homicide On-Call or Regular On-Call as determined by each Department Head. Effective the first full pay period after Union ratification and upon Board approval of the successor MOU unless otherwise noted, members of the bargaining unit shall be paid $301.00 in addition to regular salary for each seven-day period during which the attorney is required to remain "on-call" beyond regular working hours when such "on-call" duty is ordered by the Department Head and approved by the Chief Executive Officer.

B. Homicide Call-Back

A memorandum between County Counsel and the District Attorney is attached to the MOU regarding the defense and indemnification of attorneys fulfilling this role of On-Call Homicide Deputy District Attorney (Attachment D).

In addition to on-call pay, the Homicide On-call Attorney shall receive call-back compensation consisting of time and one half compensation at the regular hourly rate of compensation, for each hour that he or she is called back to work outside of the normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Provided however, that the attorney performing

approved call back work shall not be compensated for less than three 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 three hours, and no employee shall be compensated for more than eight hours work in any one eight-hour period. The employee has the option with Department Head approval to flex their work schedule in the remaining work week to provide an equivalent amount of time off and to avoid any requirement to pay additional time and one-half compensation. Example - if the employee works four hours on-call on a Tuesday night, the employee can request to forgo the additional time and one-half compensation in exchange for an additional four hours of time off on Friday with the approval of the Department Head. At the option of the Department Head or his or her designee the compensation shall be in cash or compensatory time off. Cash out of the compensatory time accrued shall be consistent with existing county policy. This compensation is limited to the performance of emergency homicide call back duties.

C. Environmental Protection Attorney Call-Back

Upon the determination of the District Attorney's Office, based upon need and appropriateness, the Environmental Protection Attorney shall be eligible to receive call-back compensation only, as provided in Subsection B (above). Furthermore, the District Attorney or designee shall be empowered to determine whether compensation shall or shall not be authorized. The parties understand that approval or denial of compensation will occur after the callback work has been performed.

No on-call compensation for the environmental protection assignment shall be granted.

D. Holiday on Call

When an Attorney is on-call on a day which is designated as a holiday pursuant to Section 3.48.010 of the Ordinance Code, the attorney shall receive, in addition to the on-call pay described above, equivalent vacation hours' credit for the holiday.

20. MALPRACTICE INDEMNIFICATION

The parties agree that the County will provide malpractice defense and indemnity for attorneys against whom malpractice claims may arise. It is recognized that this defense and indemnification applies only to claims which arise in and out of the course of the attorney's County employment.

21. BINDING ARBITRATION

The County and the CAA agree to binding arbitration of grievances (excluding EEO grievances) and discipline as provided by the attached procedures.

22. CLASSIFIED STATUS

All represented classifications assigned to the bargaining unit are included in the classified service of the County. Probation periods for covered employees shall be consistent with current County Code provisions. With the exception that attorneys employed immediately prior to the effective date of implementation of classified status, who held their current classification or any previous classification included in the bargaining unit, for one year or longer, excluding any unpaid leaves, and whose overall performance was evaluated as "Satisfactory" or better, were granted permanent status effective the date of the signing the Memorandum of Understanding.

Members of the bargaining unit who did not hold a classification assigned to this unit for one year or longer, or who did not receive the necessary overall performance rating, were eligible for permanent appointment, consistent with County Code Provisions, effective on the employee's next step advancement eligibility date, limited to the classification held at the time of the transition.

The parties agree the Stanislaus County Discipline Procedure, as amended by MOU Section 24, "Binding Arbitration", shall apply to members of this bargaining unit who have permanent status. Further, CAA agrees that there shall be a 45-day maximum suspension limit which may be ordered by the Department Head. However, the Hearing Board, or arbitrator, upon making the finding not to sustain a discharge action, may find that in lieu of a discharge a suspension in excess of 45 days is appropriate, and may make such a finding in accordance with existing practice.

23. DEPARTMENT PROBATIONARY PERIOD FOR TRANSFERS

Departments may require that employees with permanent status, seeking interdepartmental transfers, serve a probationary period in certain limited circumstances. When permanent employees transfer between departments in the same classification or demote in the same classification series they may be required to serve a new probationary period as a condition of the departmental transfer. The department must notify the employee prior to the appointment that he or she will be required to serve a department probation. The department probationary period will be for one year. Department Heads have the discretion to grant permanent status upon completion of six (6) months satisfactory job performance as evidenced by a documented performance evaluation.

The anniversary date and step increases will be granted in accordance with existing County policy as stated in Section 3.24.030 of the Stanislaus County Code. The appointing authority will provide a written statement for the employee’s personal history folder maintained in the Chief Executive Office in the event that the incumbent does not successfully complete the department probationary pursuant to Section 3.16.090 - G of County Code. The employee shall have the right to return to his/her former position where permanent status was gained, unless dismissed for cause.

24. NO CHARGES ON PROBATIONARY TERMINATIONS

The parties agree that the County will no longer be required to prepare a statement to the file as to why an individual's probationary period was terminated.

25. ACCESS TO PERSONNEL FILES

The parties agree that the Stanislaus County Chief Executive Office policy on access by an employee to the contents of his or her Chief Executive Office personnel file will continue. That policy provides that upon request, an employee may review in the presence of a CEO staff member, the contents of his or her file and be provided with a copy of any materials in that file. Requests for copies of material contained within the file must be reasonable and should not typically include a request for copies of all documents contained within this file. The intent is to provide the employee with copies of documents which he or she may have not received previously. With the written consent of the employee, a designated representative of the employee may review the contents of the file.

26. BARGAINING UNIT LISTS

The parties agree that the County will provide the CAA a list of the bargaining unit in compliance with AB 119. The bargaining unit list is provided monthly and includes: Employee's name, home address, phone number, personal electronic mail address, job classification/title, and membership status. Employee's personal information is obtained from County's electronic database and is only as accurate as the employee has provided.

CAA agrees to take all due precautions to insure that the information on the list will not be used for purposes other than CAA representation of its bargaining unit members and will not be used in any manner so as to harm the confidentiality or right of privacy of members of the bargaining unit. CAA agrees to indemnify, defend and hold harmless Stanislaus County, its employees and agents against damages or claims of whatever nature arising out of CAA control and use of bargaining unit lists.

27. BEST EFFORTS IN CONTRACT ADMINISTRATION

The parties agree to mutually utilize their best efforts in the administration of this agreement. Best efforts shall mean expeditiously meeting together, communicating with employees and department heads and taking other such actions to attempt to minimize disputes arising over administration of these provisions.

28. LABOR MANAGEMENT COMMITTEE

The County and CAA shall establish committees comprised of labor and management representatives to deal with specific areas of concern as specified by the parties. Such committees shall not have the authority to reach binding

agreements, but the members thereof shall be free to conduct discussions in their individual capacities on topics under the area of Myers Milias Brown Act (MMBA), as well as other matters involving employer-employee relationship.

29. JOB STEWARDS

One attorney in each department will be permitted reasonable time off (i.e. no more than an average of one hour per week) with prior supervisor approval, to assist in the investigation of any alleged MOU violations or grievances of employees within the department and in the bargaining unit.

The CAA agrees to keep the County and each Department Head advised of the Attorneys designated by the CAA for the above duties.

30. MEMO/DOCUMENTS

The County agrees that OE 3 or the current CAA Bargaining Agent may obtain from bargaining unit employees, a copy of memos and documents related to employee wages, hours and other terms and conditions of employment which are given to members of the bargaining unit.

31. PERFORMANCE EVALUATION POLICY

Performance evaluations should be completed on a regular basis and shall not cover a period of greater than one year.

For any employee who has not received an annual evaluation for a period of time greater than one year, a current performance evaluation may be completed which will encompass no more than the prior twelve months of actual performance. For example, if an employee has not been evaluated for four years, the employee would be given only one evaluation covering the most recent performance, i.e. no more than twelve months of actual work time. Performance evaluations shall be reviewed with the employee on a timely basis. Late or missed evaluations shall not be subject to the grievance procedure. Late evaluations where an employee may be eligible for a step increase will be handled in accordance with County Policy - automatic step increases. The due date is normally tied to the employee's salary anniversary date, even if the employee is at the top step of the salary schedule. Department Heads are encouraged to evaluate all classified employees on a regular basis, even those who have reached the top step.

Performance reviews shall follow established County standards for evaluations and all County policies, County guidelines, and the County Code of Ethics. County provided Evaluation training is recognized as one source of County guidelines.

The County and CAA acknowledge that a supervisor is offering his or her informed opinion of subordinate's work performance in the evaluation process. It is recognized that some of the conclusions in an evaluation process may be subjective in nature. However, supervisors shall not rely on rumors or hearsay in making judgments in performance evaluations.

No adverse comment shall be introduced into an employee's performance evaluation that has not been previously discussed with the employee and documented pursuant to Performance Evaluation Policy at Tab 19, Page 1 of the County Personnel Manual. Supervisors should not surprise the employee with any unsatisfactory rating or needs improvement rating without having engaged in a prior discussion with the employee on behavior that is unacceptable or in need of improvement. As such, supervisors shall not enter any adverse comment in any performance evaluation without first discussing the matter with the employee and documenting the discussion appropriately. Such discussion shall be timely in regard to the employee's behavior.

Employees may file a rebuttal to the evaluation. The supervisor shall provide a written response to the employee. Both items will be copied to the personnel file.

In the Office of the District Attorney, all performance reviews shall be reviewed and approved by the Assistant District Attorney or designee of the District Attorney.

32. PAYROLL DEDUCTIONS

A. Bargaining Agent Deduction

The parties agree that the County will maintain a payroll deduction for an agent named by the CAA to assist with bargaining with the County. The current named agent is:

Operating Engineers Local 3

This deduction shall be taken in accordance with the policy of the Auditor-Controller. It is further acknowledged that the monthly fee required by the Auditor-Controller for fewer than fifty participants will be waived if additional represented bargaining units negotiate the deduction and there is a total of fifty or more participants from the bargaining units when combined.

B. Voluntary Dues Deduction

The County will deduct CAA membership dues using the appropriate authorization form which must be completed by any member of the Attorneys bargaining unit who voluntarily elects to have the dues deduction. Notwithstanding that the County recognizes the CAA as the recognized employee organization representing the Attorney's bargaining unit, the County agrees to also deduct the named bargaining agent dues using the appropriate authorization form which must be completed by any member of the Attorney's

bargaining unit voluntarily electing to have the deduction. The County will forward such deductions to the named bargaining agent at the address on file with the County Auditor-Controller's Office. The CAA deduction will be forwarded by the Auditor-Controller to the CAA address on file. The named bargaining agent and CAA agree to defend, indemnify and hold harmless the County and its employees or agents against claims of whatever nature arising out of deductions from employee paychecks.

33. COUNTY FACILITIES USE

A. Use of County Buildings

CAA may be granted use of County facilities for meetings composed of County employees within the bargaining unit provided space can be made available without interfering with County needs. CAA shall obtain the permission of the designated County official for the use of such facilities.

B. Use of Department Bulletin Boards

CAA shall be assigned a space for posting communications with its members in each work area. Such space is only for the purpose of such communications, as an aid to CAA under the following conditions:

- Material shall be posted on space as designated
- Posted material shall bear the name of the Association
- Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State, or County laws
- Material shall be neatly displayed and shall be removed when no longer timely

It is further acknowledged that CAA may use the County interdepartmental mail system and e-mail to communicate with its members.

34. REDUCTION-IN-FORCE POLICY

The parties agree that the County Reduction-In-Force Policy included as part of this agreement as Attachment A, applies to all employees covered by this agreement.

35. 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.

Prior to invoking the automatic resignation provisions of the MOU, the Department shall serve upon the employee a letter of intent. In the event the employee claims his or her voluntary resignation was by reason of mistake, fraud, duress, undue

influence, or that for any other reason it was not his or her free and voluntary act, he or she may submit a written petition to the Department Head to set aside his or her resignation within seven (7) days service of the letter. It shall be presumed that a properly addressed letter is served on the day following the day on which the letter is mailed.

Upon receipt of the petition, the Department Head shall schedule an informal hearing at which the employee may present statements by him/herself, written statements of any witness(es), and other documentary material. He or she may be represented by another individual in presenting this response. The Department Head shall fairly and impartially consider the employee's response, and shall thereafter (1) invoke the automatic resignation, or (2) revoke the intended automatic resignation.

In the event the Department Head determines to invoke the automatic resignation, or the employee has not submitted a petition to set aside resignation to the Department Head, the employee shall be served notice that the Department has invoked the automatic resignation and the effective date of that resignation. The employee acted against, may within seven (7) days service of this notice, appeal the action of the Department Head. An appeal shall be in writing, shall be filed with the Chief Executive Officer, and shall set forth the reason(s) for the appeal.

Within a reasonable time of the filing of the appeal, a hearing shall be held before the chair of the disciplinary proceedings hearing board pursuant to County Code 3.28.060, Hearing Board and Hearing Officer. All parties shall be notified of said hearing. The decision of the Hearing Board is final. If the employee fails to appeal within the time specified, or subsequently withdraws the appeal, the action taken by the Department Head shall be final.

36. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

The County and the CAA 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 Association agree to meet and confer if the accommodation will require some modification of the MOU or County policy which 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.

37. ATTORNEYS RECLASSIFICATION PROJECT

The parties agree that all Attorney positions shall be block budgeted to the V Level so that all Attorneys have an equal opportunity to be promoted to the highest level based on work performed and qualifications as outlined in the new Attorney job descriptions. Attorneys are eligible for promotion to the next level at their established next review date, effective January 1, 2002.

Promotion from level IV to Level V will work the same way as from Level I to Level II, Level II to Level III, and from Level III to Level IV, fully allocated and noncompetitive, based on the job descriptions and the work done by the employee.

The parties agree during the term of this agreement to meet and confer at the request of either party to discuss the Attorney's classification series, including proposed revisions to the job descriptions.

38. AGENCY SHOP

The parties agree to meet and confer regarding agency shop.

39. CONTINUING OTHER POLICIES

The parties agree that the County Reduction-In-Force Policy, Grievance Procedure, Equal Employment Opportunity Grievance Procedure, leave of absence/sick leave (except as modified by State and Federal laws), vacation, holiday, retirement and discipline policies and other written County policies effecting wages, hours and other terms and conditions of employment, excluding workload or caseload issues, 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.

40. SEVERABILITY

It is not the intent of the parties hereto to violate any laws, ruling 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 regulations, nevertheless, 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.

41. FULL UNDERSTANDING, MODIFICATION AND WAIVER

A. This Agreement sets forth the full and entire understanding of the parties regarding matters set forth herein, and any and all prior or existing Memoranda of Understandings, and Agreements, regarding the matters set forth herein, whether formal or informal are hereby superseded and terminated.

B. It is the intent of the parties that Ordinances, Board resolutions, rules and regulations enacted pursuant to this Agreement be administered and observed in good faith.

C. Nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this agreement.

D. The County acknowledges that in any joint meetings or negotiation between the County, the CAA, and any other employee organization, the rights, duties and obligations of Government Code Section 3505.3, remain in full force and effect, and are in no way waived or limited by any agreement to negotiate jointly.

42. ETHICAL ISSUES

A. Ethical Issues at the District Attorney's Office

A Deputy District Attorney shall not prosecute a case in which he/she believes the defendant is factually innocent. If the Deputy District Attorney believes a defendant to be factually innocent, the Deputy District Attorney should advise their Chief of the same. If the Chief disagrees with the Deputy District Attorney, the Chief will reassign the case to another DDA.

All communication regarding this issue should be memorialized in the case file.

B. Ethical Issues at the Public Defender's Office

A Deputy Public Defender bringing forward issues regarding an employee's assertion of an ethical duty related to requests for investigation and/or expert witnesses shall not suffer any adverse effect or retaliation for bringing forth such issue. Resolution of these issues will be handled by the Department Head.

43. TRAVEL POLICIES

Each office with CAA employees agrees to follow the County's existing written Travel policies, or as may hereafter be modified by the County.

ATTACHMENT A

STANISLAUS COUNTY
REDUCTION-IN-FORCE
Classification Seniority Calculation

The following Reduction-In-Force Policy has been established and agreed to for the following bargaining units effective August 7, 2012:

County Attorneys' Association (CAA)
Stanislaus County District Attorneys' Association (SCDAIA)
Stanislaus Regional Emergency Dispatchers' Association (SREDA)

The joint Reduction-In-Force Policy may only be amended by mutual agreement of the County and all represented bargaining units. Issues related to implementing reduction-in-force actions which are not specifically addressed within this policy will be subject to further meet and confer between the County and the affected bargaining unit(s).

REDUCTION-IN-FORCE

Whenever in the judgment 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.

Alternatives to Layoffs

Upon request of the Union, the County agrees to meet and confer with the Union prior to implementing any reduction-in-force action, to discuss alternatives to lay-off.

ORDER OF SEPARATION

Employees in the same classification and department shall be separated considering type of appointment and total continuous seniority 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 separation by appointment types shall be:

1. Provisional
2. Extra-Help/Part-time (Extra Help positions may be maintained by mutual agreement of County and impacted bargaining unit)
3. Trainee
4. Regular Full-time

Within regular full-time appointments, employees with probationary status (either initial County or classification) shall be laid off before employees with permanent status in the same classification regardless of relative seniority.

REDUCTION-IN-FORCE SENIORITY PROCEDURE

In calculating total continuous service for the County, those records which are maintained by the Chief Executive Office shall be utilized. However, should there be a challenge to the validity of the calculations or cases of equal or near equal seniority, the Chief Executive Office may utilize such payroll or other records which may be on file with the Auditor-Controller's Office or other department.

Continuous Service Defined

Employees on approved leaves of absences without pay, catastrophic leave (donated time) or unpaid suspension shall retain seniority accumulated before the leave of absence. The first 60 calendar days on the unpaid leave, catastrophic leave or suspension will be included in the seniority score computation. Time will be deducted starting the 61st calendar day of such leave. Time spent on military leave is not deducted for the purposes of calculating seniority regardless of the length of such leave.

Service to the County including personal services contractor, unpaid volunteer/intern, or any service which is not in an employer-employee relationship does not count toward total County seniority.

Continuous service is defined as all service in the County regardless of classification and department. When there has been a permanent separation of 90 days or more credit shall be given only for full-time employment following such break in services. If an employee has a break in service less than 90 days, only the time before and after the break would count toward seniority time. Persons hired from a reduction-in-force reemployment list regain all previously earned seniority on the date of reemployment.

SENIORITY CALCULATIONS

Among permanent employees the order of layoff will be determined by the employee's seniority calculation in the following order:

1. Classification Seniority (The Attorney I-V classification will be based upon working titles);
2. County Seniority for Regular Full-Time Employees;
3. Department Seniority;
4. County Seniority with extra help service included; and,
5. Lottery

1. Calculation of Classification Seniority

   Among permanent employees in the affected classification and department, the order of layoff will first be determined by total continuous full-time service in the employee's current classification and higher ranking classification, if applicable.

   For block-budgeted classifications (example, Attorney I-V) total continuous service in all levels of the block-budgeted classification will be included in the seniority score. For individuals in the Attorney I-V classification, the seniority score will be calculated utilizing the individual's working title. For example, calculation of classification seniority will be based upon time as a Deputy District Attorney, Deputy Public Defender, or Attorney assigned to Child Support Services.

   Extra-help/part-time is not counted in calculating Classification Seniority.

2. Calculation of County Seniority for Full-Time Regular Employees

   In the case of two or more employees with equal Classification Seniority, the order of layoff will then be determined by County Seniority. Calculation of County Seniority means all continuous service in the County in a regular full-time position. Extra-help/part-time service time is not counted in calculating regular full-time County seniority.

3. Calculation of Department Seniority

   In the case of two or more employees with equal Classification and County Seniority the order of layoff will then be determined by total continuous full-time service in all positions held in the impacted department. Extra-help/part-time service is not counted in calculating Department Seniority.

4. Calculation of County Extra-Help Service

   In the event of a tie extra-help hours during continuous service will be included in the total Seniority calculation. Extra-help hours served on or after January 1, 1999, will be counted on an hour-for-hour basis with eight (8) hours as the equivalent of one (1) work day of service. Extra-help hours served prior to January 1, 1999, are not available in the existing payroll system and will be calculated at 2.86 hours a day per seven (7) calendar days of service (equivalent of 20 hours).

5. Lottery

   Should the order of layoff not be determined in the calculation of Classification, County, County Service with Extra-help included, or Department Seniority an agreed upon lottery system will be used to determine the order of layoff. The County and the impacted bargaining unit(s) will meet and confer over the terms and conditions of the lottery process prior to each lottery.

WRITTEN NOTICE

Written notice of layoff shall be served by the Chief Executive Office on affected employees in person or by certified letter mailed to the last address on file with the Chief Executive Office. 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.

Notice of probationary release to employees on Probation will be served by the Department Head.

DEMOTION RIGHTS 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; this will require the department to have a vacant position available, or for the demoting employee to have more seniority than existing employees in the position in which they are demoting to. Employee must currently meet the minimum qualifications in order to demote to a classification previously held or within the classification series. Individuals with multiple demotion rights will be demoted to the highest classification previously held or in the classification series. Less senior employees in the department 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 Officer/designee in writing no later than seven (7) working days after receiving notice of layoff.

TRANSFER IN LIEU OF LAYOFF - VACANCY

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 where the employee presently meets the minimum qualifications. Such requests require completion of the receiving Department's background process and approval by the gaining Department Head. (Department probation, if applicable, may be applied.)

TRANSFER ACROSS DEPARTMENT LINES- FILLED POSITIONS

Employees may bump across department lines in only one circumstance. A permanent employee impacted by a reduction-in-force action, shall have the right to transfer to a position filled by a probationary employee if the position is in the same classification and if the less senior employee is on initial County probation. The employee electing to "bump" to the new County department may be required complete the receiving Department's background process and 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 he or she transferred from. This provision shall not apply to Attorney I/II/III/IV/V positions assigned to the District Attorney's Office, the Public Defender's Office or the Department of Child Support Services.

RE-EMPLOYMENT

For a period of eighteen (18) months from the effective date of layoff 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. During the period of April 6, 2010 through June 30, 2012, the parties have agreed to extend re-employment rights to three (3) years.

Re-employment lists shall be in inverse order of lay-off with the most senior employee from amongst 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 layoff. Benefits paid out at the time of separation such as vacation or sick leave may be bought back at employee expense. Written notice of the re-employment opportunity shall be sent by certified mail to the last known-address of the former employee by the Department Head or designee. The former employee shall have fourteen (14) calendar days to respond to the notice.

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.

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.

APPEALS

Persons subject to layoff or demotion under these provisions may appeal to the Chief Executive Officer any allegation of error, fraud, irregularity or bias in the application of the reduction-in-force procedures. Any appeal submitted shall include the basis for the appeal.

An informal appeal shall first be filed by the affected person to the County's Deputy Executive Officer of Human Resources within seven (7) days of receiving the notification of the reduction-in-force. The Deputy Executive Officer shall review the applicable MOU, County's Reduction-in-Force Policy, and the seniority calculation methodology. The Deputy Executive Officer shall respond to the appeal request in writing.

The affected person may appeal the Deputy Executive Officer's decision to the County's Chief Executive Officer, within seven (7) days after receipt of the decision Deputy Executive Officer's decision. The Chief Executive Officer shall respond to the appeal request in writing.

Shall the affected individual wish to appeal the Chief Executive Officer's decision he/she may request a hearing with the Hearing Board established pursuant to Stanislaus County Ordinance Code 3.28.060 within seven (7) days of receipt of the Chief Executive Officer's decision. The appeal shall be filed with the Chief Executive Office Human Resources Division. The Chief Executive Office Human Resources Division shall forthwith transmit the appeal request to the Hearing Board. 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 the hearing at least five (5) days in advance thereof.

At the hearing, both the appellant, and the County shall have the right to be heard publicly, to be represented by Counsel and to participate in the appeal process including presenting evidentiary facts. In certain situations in which an affected employee is disputing the seniority calculation of another employee both the affected employee who is disputing the seniority calculation and the employee whose seniority is being questioned may have the right to be present at the hearing subject to agreement from the affected labor organization and the County. 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 of the 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 Ordinance Code of Stanislaus County shall govern the hearing process.

SICK LEAVE CASH OUT PROVISIONS

Employees with one (1) year of service or more who are laid off due to a reduction-in-force shall be eligible for twenty-five percent (25%) sick leave cash out upon termination from the County.

UNREPRESENTED COUNTY EMPLOYEES

The Reduction-in-Force Policy does not apply to unrepresented, unclassified County employees. Unrepresented employees in the Community Services Agency and Department of Child Support Services who have property rights under the approved local merit system will have the reduction-in-force administered in compliance with County policies. In the event a reduction-in-force occurs where an unclassified, unrepresented employee may have demotion rights to a classified position, the County will meet and confer with the affected labor organizations over the impacts to the affected bargaining units.

GRIEVANCE PROCEDURE - MOU PROVISION

Procedure for Settling Grievances Including Binding Arbitration

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 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 as complaint may not be appealed to the Chief Executive Officer or to arbitration.

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 equal rights 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.

D. 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.

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 supervisor that a grievance is present and explain it to the immediate supervisor no later than fifteen (15) working days after he 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 Grievance - 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 as 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 designee shall conduct such meeting(s) with the employee, informal hearings or investigations as are appropriate in his 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 my request, the non-binding advisory opinion verbal or in writing of the Director of Personnel concerning resolution of the grievance or complaint.

5. Grievance Appeal - If the employee wishes to appeal the Department Head's decision, he/she shall do so in writing within seven working days after receipt of the Department Head's decision. The employee may elect to submit the grievance for final decision to 1) either the Chief Administrative Officer or 2) the employee may request binding arbitration. Within the specified time period the employee 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 either procedure shall be the prerogative of the aggrieved employee(s); access to only one of the two 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 procedure utilized shall be limited to grievances only as defined in Section B, subsection 1 herein, excluding all complaints.

   a. 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 seven 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 Administrative Office or his/her designee shall be delivered to the employee within fifteen working days after receipt of the appeal. The decision of the Chief Administrative Officer or his/her designee shall be the final step in the County's procedure for settling grievances.

b. 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 Administrative Officer for final resolution, the employee may elect binding arbitration by writing to the Director of Personnel within seven (7) 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.

1. 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 or his/her representative. However, should the parties fail to mutually agree on an arbitrator they shall make a joint request of the State Conciliation Service for a list of five 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 name remains, and that person shall serve as arbitrator.

2. Arbitration Issues

The parties shall, within 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.

3. Arbitration Expenses Shared

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 share the cost of the transcript.

4. 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.

5. Binding Decision

The decision of the arbitrator rendered consistent with the terms of the Memorandum of Understanding, applicable State or Federal law, County ordinance, resolution, or written departmental policy 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 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.

6. Arbitrator's Decision Due

Unless the parties agree otherwise, the arbitrator shall render the decision in writing within 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.

7. 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, including assumption of the costs of arbitration as provided in subsection 3 herein, the recognized employee organization shall have the right to be a party to such proceeding for the sole purpose of protecting the interests of its members under the terms of the Memorandum of Understanding. The employee organization shall be bound by the decision of the arbitrator.

DISCIPLINE OF PERMANENT CLASSIFIED EMPLOYEES

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).

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 the 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 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 may present statements by himself, written statements of any witness and other documentary material. He may be represented by another in presenting his 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 shall be given another notice as provided in subsection B of this section. (Ord. CS 557 § 39, 1994; prior code § 2-241).

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 shall serve upon the employee an order in writing stating (A) the nature of the disciplinary action, (B) the effective date of the action, © 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 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 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 for 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 days in advance thereof. (Prior code § 2-242).

3.28.040 Amendment of order.

A. 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.

B. 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 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).

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 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).

3.28.060 Hearing board and hearing officer.

A. The chairman of the board of supervisors shall appoint a three-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:

1. 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.

2. The personnel director shall submit the name of a head of a department of the county.

3. Upon the request of the personnel director, each recognized employee organization shall, within five 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.

B. 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).

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 personnel department. 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 reference 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).

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 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).

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 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 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 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 hours' notice in writing to return to duty. (Ord. CS 557 § 40, 1994; prior code § 2-248).

3.28.100 Maximum suspension.

No disciplinary suspension shall be imposed for any period exceeding forty-five 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).

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 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).

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 free and voluntary act, he may submit a written petition to the personnel director to set aside his 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 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).

Binding Arbitration by an Outside Arbitrator in Lieu of Section 3.28.060 Hearing Board and Hearing Officer of The Stanislaus County Discipline Ordinance

A. Submission of the Disciplinary Appeal to the Hearing Board or Hearing Officer

The parties agree that the employee 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 officer" in lieu of binding arbitration by an outside arbitrator. Should the employee elect to utilize the hearing board or hearing officer as provided by Section 3.28.060 of the 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 agrees to assume half of the cost of the hearing officer.

B. Submission of the Disciplinary Appeal to Binding Arbitration

1. 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 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, shall request specifically the use of binding arbitration in lieu of the discipline appeals board, 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.

2. Selection of Arbitrator

If the employee 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 or his/her representative. However, should the parties fail to mutually agree on an arbitrator, they shall make a joint request of the State Conciliation 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 and the election of the arbitrator, 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.

3. Arbitration Issues

The parties shall 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.

4. 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 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.

5. Duty of Arbitrator

The duties of the arbitrator shall be those of the hearing board as referred to throughout the Stanislaus County Discipline Ordinance including, but not limited to, Sections 3.28.070 "Hearing rules" and 3.28.110 "Hearing procedure".

6. 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.

7. 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 employee assumes the costs of the hearing officer or arbitration as provided herein.

This includes that 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 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 only 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.

If the employee elects to utilize the hearing officer or panel in lieu of arbitration, the employee agrees to assume half the cost of the hearing officer.

Health Insurance Agreement Between Stanislaus County and the

California Nurses' Association
County Attorneys' Association
District Attorney Investigators' Association
Stanislaus County Deputy Probation Officers' Association Service Employees' International Union Local 521
Stanislaus County Deputy Sheriffs' Association
Stanislaus County Employees Association/AFSCME Local 10
Stanislaus County Sheriff Supervisors' Association
Stanislaus Regional Emergency Dispatchers' Association Stanislaus County Sheriffs' Management Association Stanislaus County Probation Correction Officers' Association Stanislaus Sworn Deputy's Association

1. Term of the Agreement

This agreement shall remain in full force and effect for the period of January 1, 2018 through December 31, 2020, unless extended by mutual agreement of the parties.

2. Medical Insurance

For the term of this agreement, the County will offer the following four medical plan options based on employee residency at the time of open enrollment:

<u>Within Stanislaus County Partners-in-Health Local Service Area</u>

- Stanislaus County Partners-in-Health EPO
- Stanislaus County Partners-in-Health HDHP

<u>Outside Stanislaus County Partners-in-Health Local Service Area</u>

- United Healthcare (UHC) EPO
- United Healthcare (UHC) HDHP

For employees enrolled in an EPO plan, the County shall contribute an amount equal to 80% of the EPO plan premium at each level of coverage.

For employees enrolled in a High Deductible Health Plan, the County shall contribute an amount equal to 95% of the HDHP plan premium at each level of coverage.

The County will also fund individual Health Savings Accounts (HSA) in the following amounts:

Employee only - $1,250 annually

Employee +1 - $2,100 annually

Family - $2,100 annually

HSA contributions will be made as a lump sum equivalent to six months of the annual contribution processed on the first payroll cycle paid in January of each year, and then semi-monthly beginning in July. For the period of January through June, the County will make no additional HSA contributions to employees' accounts after the initial lump-sum contribution unless there is a change in family status. The last six months of HSA contributions will begin in July, and will be included in employees' biweekly benefit-eligible paychecks. Employees are responsible for paying any account related fees on their individual Health Savings Account (up to $2.75 monthly as of September 2017).

The County will only provide one County-provided HSA contribution to two employees who are married together. Therefore, if two employees who are married together want separate medical plans, one employee must choose an EPO plan and the other employee must choose a HDHP plan.

Participants enrolled in HDHP plan options are subject to deductible payments and co-pays, which may be reimbursable through HSAs subject to available balances. Please refer to the specific plan documents to confirm deductibles and co-payments for each plan option.

The parties recognize that health insurance providers may institute benefit changes that are not within the control of the County.

3. Medical Premium Rates

The County will continue to establish medical insurance premium rates each year based on actuarial and underwriting recommendations. The County reserves the right to adjust medical insurance premium rates based on these recommendations. Medical insurance rates for the 2018 plan year will not exceed those rates provided to bargaining units during the meet and confer process on August 24, 2017.

4. Medical Plan Design Changes

The medical benefit plan design and co-pays will remain unchanged during the term of this agreement with the exception of the addition of Applied Behavioral Analysis (ABA) treatment for Autism as a covered expense and those changes which may be required by law during the term of this agreement.

The annual out-of-pocket maximums for SCPH and UHC (Individual/Family) HDHP plans are as follows:

In-Network SCPH and UHC	Out-of-Network UHC
$3,000 / $6,000	$5,000 / $10,000

The annual out-of-pocket maximums for SCPH and UHC (Individual/Family) EPO plans are as follows:

SCPH and UHC
$1,500 / $3,000

Should the IRS inflation adjusted limits increase the minimum annual deductible for high deductible health plans, the County will apply the appropriate changes to our plans with no additional County contribution to the HSA. County HSA contributions are fixed during the term of this agreement irrespective of potential regulatory changes to the deductible.

5. Medical Premium Reimbursement

The County has agreed to continue the medical premium reimbursement (MPR) program for the term of this agreement. Effective December 31, 2020, this provision will end and the County will no longer offer the MPR program. Only employees currently participating in the MPR program as of October 1, 2017 are eligible to continue participating in the MPR program.

In order to receive the medical premium reimbursement, the eligible employee must waive coverage with the County and enroll in a non-County qualified medical insurance program, individual or group coverage, meeting minimum standards under the Patient Protection and Affordable Care Act (ACA). Employees receiving a medical premium reimbursement are not eligible to receive a medical waive credit.

The County's medical premium reimbursement rate will not exceed 80% of the eligible employee's out-of-pocket medical insurance premium cost for the non-County medical plan, or 75% of the County's monthly medical premium contribution for County EPO plans, whichever amount is lower.

In order to receive reimbursement, the employee must provide proof of other coverage and proof of cost to the employee as described in the established guidelines and Quarterly Reconciliation Form. In no event, shall the medical premium reimbursement impact the compensation eligible for employee pensions or employer-paid deferred compensation.

Employees may only return to the County medical insurance program during annual open enrollment periods, or anytime the employee experiences a qualifying event in accordance with County benefit policies. If an employee who is receiving a medical premium reimbursement elects to return to the County's medical insurance program, they will no longer be eligible to receive the medical premium reimbursement should they choose to opt out of the County's medical insurance program in the future.

Employees who enroll in a non-County qualified medical insurance program are not eligible to receive any County provided HSA contributions.

6. Medical Waive Credit

The County agrees to continue offering a standard medical waive credit to any employee who waives medical insurance through the County. Employees receiving a medical waive credit are not eligible to receive a medical premium reimbursement.

In order to receive the standard medical waive credit, the employee must enroll in a non-County qualified medical insurance program, individual or group coverage, meeting minimum standards under the ACA. Employees must complete a County enrollment form waiving County coverage and attach proof of other coverage.

The standard medical waive credit will be paid on a post-tax, semi-monthly basis. The amount of the standard medical waive credit is $47.50 monthly for non-management employees and $150.00 monthly for management and confidential employees.

Employees may only return to the County medical insurance program during annual open enrollment periods, or anytime the employee experiences a qualifying event (involuntary loss of outside coverage).

Employees who enroll in a non-County qualified medical insurance program are not eligible to receive any County provided HSA contributions.

7. Dental Insurance

The County will continue to provide employees with two dental plan options through the Delta Dental program. The County will continue to pay 80% of the premium cost for the Core dental plan at each level of dental coverage (Employee only, Employee +1 and Family).

Employees may elect a “Buy-Up” dental plan option, which includes a $500 per member increase to the plan calendar year maximum and a child(ren) orthodontics benefit that pays 50% of orthodontia care up to a lifetime maximum of $2,000 per child. Additionally, the “Buy-Up” dental plan option includes access to the Premier network with claims being paid at the Premier contracted fee without balance billing. Employees who elect the “Buy-Up” dental plan option must remain on the “Buy-Up” dental plan for three (3) years. Any amount of the “Buy-Up” dental premium rate that exceeds the “Core” dental plan premium rate will be paid solely by the employee.

Should enrollment in the “Buy-Up” plan drop below 10% participation of benefit eligible employees, it will be eliminated and no longer offered. Enrollment will be reviewed and evaluated each year prior to Open Enrollment, using enrollment effective on July 1 of each year to determine if the plan will be offered during Open Enrollment for coverage effective January 1 in the following year.

The County will continue to establish dental insurance premium rates each year based on actuarial and underwriting recommendations. The County reserves the right to adjust dental insurance premium rates based on these recommendations.

8. Vision Insurance

The County will continue to provide vision coverage through the VSP Choice Plan to include a $10 co-payment for exam and materials, frame allowance of $150 ($80 at Costco), wholesale full-cost frame allowance of $57, contact lens allowance of $150, and allow members to receive a frame allowance 12 months after utilizing their contact lens benefit. The County shall pay 80% of the premium cost at each level of vision coverage (Employee only, Employee +1 and Family).

The County will continue to establish vision insurance premium rates each year based on underwriting recommendations. The County reserves the right to adjust vision insurance premium rates based on these recommendations.

9. Impacts of Healthcare Reform - Reopener

The parties recognize the implementation of additional healthcare reform regulations may present financial and operational consequences to the County. The parties agree that the County may request to meet and confer with all labor groups in advance of the 2020 plan year to address impacts of healthcare reform. The County agrees to pre-load individual Health Savings Accounts and will not propose changes to the current premium cost sharing percentages during the three year term of the agreement.

10. Additional Provisions

a. Benefit deductions are taken out of 24 of the 26 paychecks each year (twice monthly). Benefits for new hires are effective the 1st of the month following date of hire. For terminated employees, benefits continue through the last day of the month of termination.

b. The County will invite a representative of each labor group to participate in the County's Employee Wellness Program Workgroup to discuss implementing a comprehensive wellness program for County employees. Participation is voluntary and subject to department head or designee approval for any changes in standard working hours and will not result in overtime compensation.

c. An Employee Benefits Committee consisting of one employee and/or the designated labor representative per bargaining unit will meet in February, May, and September to discuss the financial and operational performance of the self-insured health plans. The County's Employee Benefits Department will be responsible for coordinating these meetings. The County maintains all plan fiduciary responsibilities, including setting annual rate adjustments based on actuarial review and analysis.

d. Regular full-time employees must work 30 hours per week to qualify for a County benefit contribution (medical, dental, vision, medical premium reimbursement, and/or waive credit). Employees working an approved percentage schedule of 30-34 hours per week will be credited with 75% of benefit contributions. Employees working an approved percentage schedule of 35-39 hours per week will be credited with 90% of benefit contributions. Additional employee contributions to health insurance premiums will be paid through payroll deduction.

   - For purposes of this policy, hours worked includes all forms of paid time rounded to the nearest whole number. Examples of paid time include, but are not limited to vacation, sick, comp time off, public safety leave (4850 leave), paid admin leave, etc.

   - This provision does not apply to part-time extra-help employees who are not eligible for benefits.

   - For regular full-time employees who change their employment status to percentage employment, this provision will be effective the first of the month following the date they assume the reduced percentage employment schedule. Benefits will return to 100% the first of the month following the effective date the employee returns to 100% regular employment status.

e. For regular full-time employees not on an approved percentage schedule who are paid less than an average of 40 hours per week (employees going into unapproved, unpaid, unprotected time off, DOC time, etc.), employee contributions will be adjusted if the employee does not average 40 hours per week of paid time in the quarter. This process will be modified for regular full-time employees working an alternative work schedule that does not provide 80-hours of regular compensation per pay period (such as the "6/3" work schedule). Unpaid suspension time as a result of employee disciplinary actions will not count against an employee in determining health insurance eligibility.

   - Employee benefit eligibility will be evaluated on a quarterly basis, based on paychecks paid in the quarter.

   - Analysis of hours paid in the quarter will occur during the first month of the following quarter. If the employee's hours fall below 40 hours per week in the quarter being reviewed, the employee's contributions will be adjusted based on the employee's quarterly average. The effective date of the adjustment will be the first pay period of the second month of the following quarter.

   - For purposes of this provision, employees averaging 36-40 hours per week will see no change in County benefit contribution. Employees averaging 31 to 35 hours per week will be credited with 90% of County benefit contributions. Employees averaging 30 hours per week will be credited with 75% of County benefit contributions. Employees averaging less than 30 hours per week will not be eligible for a County benefit contribution. Additional employee contributions to health insurance premiums will be paid through payroll deduction.

   - County benefit contributions will be restored to 100% effective the first pay period of the second month of the following quarter in which the employee is paid an average of 40 hours per week in the quarter.

f. For employees on a paid leave of absence, the County will continue the current process for coordinating leave accruals with State Disability benefits. This process allows an employee to combine their State Disability benefits with their leave accruals to equal 40 hours of compensation per week while maintaining their full health insurance benefits. For employees participating in disability plans other than State Disability, the County will continue to provide the same level of coordinated benefits consistent with the benefits available through State Disability.

g. Under current policy, employees on an unpaid, unprotected leave of absence do not receive health insurance contributions effective the first of the month following the start of their unpaid leave status. Employees returning from an unpaid leave will have their health insurance contributions restored effective the first of the month following their return to full-time paid status. Please see applicable County policies regarding unpaid leave status, exceptions for FMLA eligible employees and the availability of COBRA benefits.

h. For benefit information related to Voluntary Time Off, Job Sharing and benefit provisions for Certain Part-Time Nurses, please refer to the individual County policies and CNA labor agreement.

i. Nothing in this agreement shall enhance or reduce existing policy provisions related to military leave benefits.

11. Dependent Audit

In order to verify that only eligible individuals are covered under the County's medical, dental and vision plans, the County will be conducting an audit of all persons enrolled as dependents under the employee's plan.

The County, at its own expense, will utilize broadly accepted, industry-standard processes to determine if covered dependents meet the requirements as outlined in the County's Summary Plan Description. These processes may include, but are not limited to:

- Collection of legal documents (e.g. birth certificates, marriage certificates, legally binding adoption agreements, etc.)
- Obtaining dependent eligibility information from Medicare or health insurance companies
- Completion of sworn affidavit by County employee and/or dependents
- The purpose of this audit is to determine if only eligible dependents are enrolled

12. Ineligible Dependents

If ineligible dependents are enrolled as a result of negligent behavior by the County employee, all claims and/or premiums for the ineligible dependent will become the responsibility of the County employee.

Willful misrepresentation of dependent status may result in disciplinary action up to and including termination.

13. Full Understanding

It is understood by the parties that these provisions fully set forth the agreement of the parties in matters of health insurance as herein specified. Other than the provisions contained herein, the parties agree that only through mutual agreement of all the parties to this agreement would discussion occur during the term of this agreement on health insurance matters.

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June 30, 2010

Birgit Fladager
District Attorney
County of Stanislaus
830 12th Street, Suite 300
Modesto, CA 95354

Re: Defense and Indemnification of Employees

Dear Ms. Fladager:

You asked the Office of County Counsel to respond to a concern of some Deputy District Attorneys about whether the County will defend and indemnify them when they are fulfilling the role of On-Call Homicide Deputy District Attorney. The obligation of the County to defend and indemnify its employees for claims and actions arising out of the employees' performance of their job duties is set forth in the Government Code.

The County's duty to defend its employees is found in section 995. That section provides that the County will provide a defense to a current or former employee, upon request, in any civil action or proceeding brought against him or her, in their official or individual capacity, for injury arising out of an act or omission occurring within the scope of his or her employment with the County.

The County will defend an employee as long as the other statutory requirements are met. Those requirements are that the employee acted or failed to act without actual fraud, corruption, or actual malice and that defense of the action does not create a specific conflict of interest with the County. (Government Code § 995.2). A "specific conflict of interest" is defined as a conflict of interest or an adverse or pecuniary interest, as specified by statute or County rule or regulation.

The County's obligation to indemnify an employee is spelled out in government Code section 825. That section provides that the County will indemnify an employee for any claim or action for injury arising out of an act or omission occurring within the scope of employment.

The County shall defend and indemnify employees in the District Attorney's Office in accordance with the applicable law when and if they are sued for acts or omissions within the course and scope of their duties, including, but not limited to, job duties performed while serving

as the on-call homicide district attorney for search warrants and homicides.

Please contact me if you have any questions.

Very truly yours,

JOHN P. DOERING
COUNTY COUNSEL

By
Edward R. Burroughs
Assistant County Counsel

cc: Jody Hayes, Chief Executive Office