

[TENTATIVE AGREEMENT 10/2/2019](#)

# MEMORANDUM OF UNDERSTANDING

LAW ENFORCEMENT  
MANAGEMENT UNIT

20198 - 2023~~19~~

COUNTY OF ORANGE  
AND  
ASSOCIATION OF COUNTY LAW  
ENFORCEMENT MANAGERS

MEMORANDUM OF UNDERSTANDING

201~~98~~ - 20~~23~~<sup>19</sup>

COUNTY OF ORANGE

AND

ASSOCIATION OF COUNTY LAW ENFORCEMENT MANAGERS

FOR THE

LAW ENFORCEMENT MANAGEMENT UNIT

This Memorandum of Understanding adopted by the Board of Supervisors ~~on June 26, 2018~~ sets forth the terms of agreement reached between the County of Orange and the Association of County Law Enforcement Managers as the Exclusively Recognized Employee Organization for the Law Enforcement Management Unit for the period beginning June ~~21, 2019~~<sup>21, 2019</sup> through June ~~20, 2019~~<sup>29, 2023</sup>. Unless otherwise indicated herein, all provisions shall become effective October 25, 2019.

PREAMBLE

Recognition

Pursuant to the provisions of the Employee Relations Resolution of the County of Orange and the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), the Association of County Law Enforcement Managers, hereinafter referred to as ACLEM, was re-certified on May 14, 2014, as the Recognized Employee Organization for the Law Enforcement Management Unit with respect to wages, hours and other terms and conditions of employment. The County hereby recognizes ACLEM as the exclusive representative of employees in this unit.

## DEFINITIONS

The following terms as used in this Memorandum of Understanding shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

ASSOCIATION shall mean the Association of County Law Enforcement Managers

BOARD shall mean Board of Supervisors of the County of Orange.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CONTINUOUS SERVICE shall mean employment in a regular position which has not been interrupted by resignation, discharge or retirement. Official Leaves of Absence shall not be credited toward continuous service, but shall not constitute a break in continuous service.

COUNTY shall mean the County of Orange.

DEPARTMENT shall mean the County of Orange Sheriff-Coroner Department or District Attorney Office.

DEPARTMENT HEAD shall mean the Sheriff-Coroner or District Attorney or their designees.

EMERGENCY means an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, a pressing necessity.

EMPLOYEE shall mean a person employed by the County and covered by terms of this Memorandum of Understanding, except where the natural construction of this Memorandum of Understanding indicates otherwise.

EXEMPT EMPLOYEE shall mean a regular, limited-term or probationary employee who is designated as Executive, Administrative or Professional per the provisions of the Fair Labor Standards Act.

FULL-TIME EMPLOYEE shall mean an employee employed in one (1) or more regular or limited-term positions whose normally assigned work hours equal those of a full workweek or work period as described hereinafter.

LIMITED-TERM EMPLOYEE shall mean an employee employed in a limited-term position except where a regular position is converted to a limited-term position, the incumbent shall retain his or her former status. As an exception to this definition, a limited-term employee may also be used to fill a regular position when the incumbent employee is on Official Leave of Absence.

LIMITED-TERM POSITION shall mean a position which the County has determined has no anticipated long-range funding or has uncertain future funding.

OFFICIAL PERSONNEL FILE shall mean the department and/or Human Resources file of personnel records maintained on each employee.

PART-TIME EMPLOYEE shall mean an employee employed in one (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL EMERGENCY shall mean an unforeseen event or circumstance of a serious nature which is beyond an employee's control and which necessitates the employee's absence from County duty, including, but not limited to, those events and circumstances which require the employee's prompt attention to avoid possible financial loss to, or damage to the health of, either the employee or a member of his or her household.

PRACTICABLE shall mean feasible; reasonably able to accomplish.

PROBATIONARY EMPLOYEE shall mean an employee who is serving a probation period and is employed in a regular or limited-term position.

PROMOTION shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class where the maximum step on the new salary range is higher than the maximum step of the old salary range.

REASSIGNMENT shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class on the same salary range.

REDUCTION IN CLASS shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class where the maximum step of the new salary range is lower than the maximum step of the old salary range.

REDUCTION IN SALARY shall mean the movement of a regular or limited-term employee from one (1) step on the salary range for a class to a lower step on the salary range for the same class.

REGULAR EMPLOYEE shall mean an employee who is not on probation and is employed in a regular or limited-term position.

REGULAR POSITION shall mean a position established on a permanent year-round basis requiring work on a regular schedule unless otherwise authorized by minute order of the Board.

SENIORITY shall mean total continuous full-time equivalent service as a regular employee unless the context herein indicates otherwise.

Y-RATE shall mean a pay rate outside of the assigned salary range of a class.

## ARTICLE I WORK PERIOD AND PREMIUM PAY

### Section 1. Work Period and Work Week

- A.
1. For Law Enforcement Managers the official work period shall be 28 days and shall begin at 12:00 a.m. on each Friday and end at 12:00 a.m. four weeks later.
  2. Law Enforcement Management employees are not governed by the customary forty (40) hour workweek and may be expected to work more than forty (40) hours in a given work week pursuant to the specific dictates of the assignment. On occasion, employees may work less than a full workweek if the nature of the assignment so dictates and the employee has either received permission from his/her supervisor to do so or the employee uses appropriate leave time. The Department Head shall regulate the work schedule based on the needs of the County with due regard to maintaining reasonable and equitable work schedules for all employees.
- B. If any Law Enforcement Management employee is required to work an unusually large number of hours as a result of natural disasters and/or officially declared emergencies such as floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances, the Department Head may authorize additional compensation for such an employee or group of employees whom the Department Head determines should receive additional compensation. The rate of such compensation shall not exceed the employee's regular biweekly pay rate.
- C. Employees shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed for each full pay period worked as determined by Article I, Section 1.A.
- D. Notwithstanding any other provisions contained herein, ACLEM employees declared by the Chief Human Resources Officer to be exempt from the Fair Labor Standards Act shall not be docked salary for partial day absences as long as that exempt status continues to apply and as long as the Fair Labor Standards Act is applicable to the County.

### Section 2. Premium Pay

#### A. Night Shift Differential

1. An employee who works an assigned night shift [as determined by the Department Head](#), shall, in addition to his or her regular salary, be paid a night shift differential for each hour actually worked on the assigned night shift.

2. For purposes of this Section, night shift shall mean an assigned work shift of seven (7) consecutive hours or more which includes at least four (4) hours of work between the hours of ~~4 p.m. and 8 a.m.~~ 6 p.m. and 6 a.m.
3. The rate of night shift differential shall be five (5) percent of one-eighth (1/8) of the biweekly rate.

#### B. Bilingual Pay

1. Qualified employees who meet the following criteria shall receive thirty (30) cents per hour for each hour worked.
  - a. An employee must be assigned by Department management to speak or translate a language in addition to English. This may include such specialized communication skills as sign language.
  - b. Employees must regularly and frequently speak and/or translate a second language, i.e., once daily.
  - c. To become qualified, employees must be certified as qualified by the Chief Human Resources Officer, or his/her designee.

#### C. ~~Police Services Chief's Premium~~

~~The Sheriff-Coroner may authorize a five (5) percent premium, based on assignment and performance, for Lieutenants who are appointed to positions that function as Police Services Chiefs in jurisdictions that contract with the County for police services.~~

#### DC. Special Assignment Premium

1. The District Attorney may authorize a five (5) percent premium for Commanders and Assistant Chiefs functioning in specialty assignments which have significant responsibility for the management and coordination of countywide regional or federal programs.
2. The Sheriff-Coroner may authorize a five (5) percent premium, based on assignment and performance, for Lieutenants functioning in assignments with significant responsibility for the management and coordination of personnel and resources in support of specialized units, programs, initiatives, or law enforcement contracts.

ARTICLE II PAY PRACTICESSection 1. Compensation for Employees

The Law Enforcement (LM) Salary Schedule includes only two (2) steps: Probationary and Non-Probationary.

The LM Salary Schedule reflected below was effective ~~the first full pay period in January, 2018~~ January 4, 2019:

<u>Law Enforcement Management - Sheriff Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1</u>	<u>Hourly</u>	<u>\$77.42</u>	<u>\$80.94</u>
	<u>Biweekly</u>	<u>\$6,193.60</u>	<u>\$6,475.20</u>
	<u>Monthly</u>	<u>\$13,419.47</u>	<u>\$14,029.60</u>
	<u>Annually</u>	<u>\$161,033.60</u>	<u>\$168,355.20</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2</u>	<u>Hourly</u>	<u>\$89.05</u>	<u>\$93.10</u>
	<u>Biweekly</u>	<u>\$7,124.00</u>	<u>\$7,448.00</u>
	<u>Monthly</u>	<u>\$15,435.33</u>	<u>\$16,137.33</u>
	<u>Annually</u>	<u>\$185,224.00</u>	<u>\$193,648.00</u>

<u>Law Enforcement Management - District Attorney Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1A</u>	<u>Hourly</u>	<u>\$84.52</u>	<u>\$86.54</u>
	<u>Biweekly</u>	<u>\$6,761.60</u>	<u>\$6,923.20</u>
	<u>Monthly</u>	<u>\$14,650.13</u>	<u>\$15,000.27</u>
	<u>Annually</u>	<u>\$175,801.60</u>	<u>\$180,003.20</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2A</u>	<u>Hourly</u>	<u>\$90.86</u>	<u>\$93.10</u>
	<u>Biweekly</u>	<u>\$7,268.80</u>	<u>\$7,448.00</u>
	<u>Monthly</u>	<u>\$15,749.07</u>	<u>\$16,137.33</u>
	<u>Annually</u>	<u>\$188,988.80</u>	<u>\$193,648.00</u>

<u>Law Enforcement Management - Sheriff Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1</u>	<u>Hourly</u>	<u>\$75.15</u>	<u>\$78.56</u>
	<u>Biweekly</u>	<u>\$6,012.00</u>	<u>\$6,284.80</u>
	<u>Monthly</u>	<u>\$13,026.00</u>	<u>\$13,617.07</u>
	<u>Annually</u>	<u>\$156,312.00</u>	<u>\$163,404.80</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2</u>	<u>Hourly</u>	<u>\$86.43</u>	<u>\$90.36</u>
	<u>Biweekly</u>	<u>\$6,914.40</u>	<u>\$7,228.80</u>
	<u>Monthly</u>	<u>\$14,981.20</u>	<u>\$15,662.40</u>
	<u>Annually</u>	<u>\$179,774.40</u>	<u>\$187,948.80</u>

<u>Law Enforcement Management - District Attorney Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1A</u>	<u>Hourly</u>	<u>\$82.04</u>	<u>\$84.00</u>
	<u>Biweekly</u>	<u>\$6,563.20</u>	<u>\$6,720.00</u>
	<u>Monthly</u>	<u>\$14,220.27</u>	<u>\$14,560.00</u>
	<u>Annually</u>	<u>\$170,643.20</u>	<u>\$174,720.00</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2A</u>	<u>Hourly</u>	<u>\$88.20</u>	<u>\$90.36</u>
	<u>Biweekly</u>	<u>\$7,056.00</u>	<u>\$7,228.80</u>
	<u>Monthly</u>	<u>\$15,288.00</u>	<u>\$15,662.40</u>
	<u>Annually</u>	<u>\$183,456.00</u>	<u>\$187,948.80</u>

A. Effective the first day of the first full pay period following adoption of this Memorandum of Understanding by the Board of Supervisors, the unadjusted base salary rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

A.B. Effective ~~July 6, 2018~~ July 3, 2020, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.



C. Effective ~~January 4, 2019~~ July 2, 2021, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

B.D. Effective July 1, 2022, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

#### Section 2. Pay for New Employees

A new employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the new employee is hired.

#### Section 3. Salary on Promotion

A newly promoted employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the employee is promoted.

#### Section 4. Salary on Reduction in Class

A.

1. When a probationary employee, an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the employee's Department Head is reduced to a class not previously occupied by the employee, the employee shall be placed in the Probationary step for the lower class and shall receive a new probationary period.
2. When a promotional probationary employee, an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the employee's Department Head is reduced to a class the employee occupied in good standing, the employee shall be placed in the Non-Probationary step for the lower class.

B. When a regular or limited-term regular employee is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief Investigative Commander to D.A. Investigative Commander), by demotion for reasons of unsatisfactory performance, the employee's salary shall be reduced to the Non-Probationary step on the salary range.

C. When a regular or limited-term employee in good standing is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief

Investigative Commander to D.A. Investigative Commander), for reasons other than unsatisfactory performance, the employee shall be reduced to the Non-Probationary step in the lower class.

- D. When a regular, limited-term or probationary employee is reduced as the result of a position reclassification, the applicable salary shall be determined as follows:
1. If the salary of the employee is the same or less than the maximum of the new class each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class. Each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range of the new class.
  2. If the salary of the employee is greater than the maximum of the new range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum of the new range exceeds the salary of the employee or until the period of calendar time indicated in the schedule below has elapsed, whichever is sooner. If, at the end of the calendar period indicated below, the salary of the employee still exceeds the maximum of the new salary range, the salary of the employee shall be reduced to the maximum salary for the new class.

#### Y-Rate Schedule

<u>Years of Full-Time Continuous Service</u>	<u>Duration of Y-Rate</u>
Less than 5 years	Two years from the date of reclassification
5 years but less than 10 years	Three years from the date of reclassification
10 years but less than 15 years	Four years from the date of reclassification
15 years but less than 20 years	Five years from the date of reclassification
20 years but less than 25 years	Six years from the date of reclassification
25 years or more	Seven years from the date of reclassification

3. When an employee on Y-Rate accepts a voluntary reduction, his or her salary shall be reduced to the Non-Probationary step of the new class.

#### Section 5. Salary on Reclassification

- A. The salary of a regular, limited-term or probationary employee whose position is reclassified shall be determined as follows:
  1. If the position is reclassified to a class with the same salary range, the employee's salary, and probationary status remain the same as in the former class.
  2. If the position is reclassified to a class with a higher or lower salary range, each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class and each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range in the new class.

#### Section 6. Salary on Reemployment

- A. A person who is reemployed in the same occupational series in which the person held regular status and was separated in good standing, may upon approval of the Chief Human Resources Officer, be appointed at the same Probationary or Non-Probationary step the person held prior to separation, but no higher than the step the person received at the time of separation.
- B. A former County employee on paid County retirement may be reemployed for the maximum allowable time, pursuant to Government Code provisions, in any one (1) fiscal year in a position requiring special skills and knowledge or other reasons authorized by law and may be appointed to the position at an hourly rate not to exceed 80% of the hourly rate that the employee earned at the time of retirement.

#### Section 7. Changes in Salary Allocation

If a class is reassigned to a higher or lower salary step, each Probationary employee in the class shall be compensated at the new Probationary step. Each Non-Probationary employee in the class shall be compensated at the new Non-Probationary step.

## ARTICLE III GENERAL PERSONNEL PROVISIONS

### Section 1. Probation

#### A. New Probation

##### 1. Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment ending with the first day of the pay period following completion of said period.

##### 2. Part-Time Employee

A new or reemployed employee in a part-time regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

#### B. Promotional Probation

1. A full or part-time employee who is promoted shall be placed on promotional probation and shall serve a probation period of fifty-two (52) weeks from the date of promotion ending with the first day of the pay period following completion of said period. A part-time employee shall serve a promotional probation period for 2080 hours ending with the first day of the pay period following completion of said period.
2. When a regular or regular limited-term employee is promoted as a result of the employee's position being reclassified to a higher class and the class from which the employee is promoted is subsequently deleted or abolished, the incumbent employee shall not serve a promotional probation period.
3. When an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the employee's Department Head is reduced to a class the employee formerly occupied, the employee shall serve the remainder of any uncompleted probationary period in that class.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

## C. Failure of Probation

### 1. New Probation

An employee on new probation may be released at the sole discretion of the eD Department at any time without right of appeal or hearing except that where an employee alleges his or her release was the result of discrimination by the County in violation of Article XVII, NONDISCRIMINATION or alleged misconduct (to the extent covered by the Public Safety Officers Procedural Bill of Rights Act (POBR)), the employee may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt by the employee of notice of failure of new probation.

### 2. Promotional Probation

- a. To the extent permitted by law, an employee on promotional probation may be failed at the sole discretion of the eD Department at any time without right of appeal or hearing.
- b. When an employee fails his or her promotional probation, the employee shall have the right to return to his or her former class provided the employee was not in the class for the purpose of training for a promotion to a higher class.
- c. When an employee is returned to his or her former class under the provisions of this Section, the employee shall serve the remainder of any uncompleted probationary period in the former class. A regular employee who accepts promotion to a limited-term position other than at the direction of the employee's Department Head shall not have the right to return to his or her former class.
- d. If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in his or her former occupational series closest to, but no higher than, the salary range of the class which the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.

## D. General Provisions

1. When an employee's record consists of a combination of full-time and part-time service in regular or regular limited-term positions, except as provided in Section 4.C., below, part-time service shall be applied proportionately by using total hours worked to appropriate full-time requirements. For purposes of this Section, one thousand forty (1040) hours shall equal twenty-six (26) weeks and two thousand eighty (2080) hours shall equal fifty-two (52) weeks.

2. When the Department Head or his or her representative passes an employee on probation, that determination shall be based upon a written performance evaluation and shall be discussed with the employee. A probation period may not be extended, except as provided in Section 1.E.1. and 2. of this Article, below, and an employee who is permitted by the Department to work beyond the end of a probation period shall be deemed to have passed such probation period.

#### E. Extension of Probation Periods

1. The granting of an Official Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended period resulting from the Official Leave of Absence shall end with the first day of the pay period after said extended date. An employee who is suspended shall have his or her probation extended by the length of the suspension, with the extended probation period ending with the first day of the pay period after said extended date.
2. A new or promotional probationary employee who is on paid Administrative Leave shall have his or her probationary period extended by the length of the leave. If the extended probationary period ends in the middle of a pay period, the probationary period shall be extended to conclude on the final day of that pay period.
- ~~2.3.~~ The Chief Human Resources Officer shall extend the new or promotional probationary periods of incumbents appointed as a result of a selection procedure which is appealed. Such probationary periods shall be extended no longer than sixty (60) calendar days from the date on which the County receives the Appeals Officer's findings and decision. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee has served a probationary period which is longer than the probationary period normally prescribed for new or promotional probation, such an employee may fail probation during the extended period only upon recommendation of the Appeals Officer and final determination of the Board of Supervisors.
- ~~3.4.~~ Upon recommendation of the Department or request of the employee with concurrence of the Department, the probation period of an employee may be extended at the sole discretion of the Chief Human Resources Officer for a period not to exceed one hundred eighty (180) calendar days provided such action is approved by the Chief Human Resources Officer before the normal probation period is completed.

Denial of a request to extend a probation period shall not be subject to appeal or hearing.

4.5. The Chief Human Resources Officer shall extend the probationary period of employees with an employment authorization document which has an expiration date which would occur after the end of the probation period. Such probation periods shall be extended to coincide with the expiration date of the employment authorization document. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee serves a probationary period which is longer than the normal probation period, such an employee may fail probation during the extended period only for failure to obtain a new, valid employment authorization document by the expiration date of the expiring employment authorization document.

## Section 2. Contents of Personnel File

- A. Adverse statements prepared by the County shall not be included in an employee's official personnel file unless a copy is provided to the employee.
- B. An employee shall have the right to inspect and review the contents of his or her official personnel file at reasonable intervals.
- C. In addition, an employee shall have the right to inspect and review the contents of his or her official personnel file in any case where the employee has a grievance related to performance, to a performance evaluation, or is contesting his or her suspension or discharge from County service.
- D. Letters of reference and reports concerning criminal investigations concerning the employee shall be excluded from the provisions of B. and C., above.
- E. An employee shall have the right to respond in writing or personal interview to any information contained in his or her official personnel file, such reply to become a permanent part of such employee's official personnel file.
- F. Any contents of an employee's official personnel file may be destroyed pursuant to an agreement between the Chief Human Resources Officer and the employee concerned or by an order of an arbitrator, court or impartial hearing officer unless the particular item is otherwise required by law to be kept.

## Section 3. Status of Limited-Term Employees

- A. All limited-term employees shall be subject to the same hiring standards and shall earn all benefits, except Article XI, LAYOFF PROCEDURE, which accrue to employees in regular positions.
- B. A regular employee who transfers, promotes or reduces to a limited-term position on a voluntary basis and not at the direction of the Department Head shall become a limited-term regular employee.

- C. All limited-term employees who transfer to permanent funded positions shall serve a new probation period. Limited-term regular employees who transfer to permanent positions shall maintain their original hire date for purposes of vacation and sick leave, or annual leave accrual, retirement and layoff.
- D. When funding ceases for a limited-term position or when the position is no longer necessary, the limited-term position shall be abolished and the incumbent shall be removed from the payroll except as provided in E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Department Head shall make such an order in writing prior to the date of transfer or promotion.

#### Section 4. Temporary Promotion

- A. A regular, probationary or limited-term employee who is assigned on a temporary basis to a higher level vacant regular or limited-term position shall be promoted on a temporary basis to that class when such employee has been assigned to the higher class for one hundred twenty (120) consecutive regularly scheduled hours of work and the employee has been performing all of the significant duties and responsibilities of the higher class unless the employee requests to be reassigned to his or her former class. In such a case the employee shall be reassigned within five (5) working days.
- B. The Department may, at its option, waive the one hundred twenty (120) hour requirement when it is necessary to utilize a regular, probationary or limited-term employee in a higher level vacant regular or limited-term position for a period that is expected to be at least one hundred twenty (120) regularly scheduled hours but not to exceed nine (9) months. Temporary promotions which are being used to dual-fill for an employee on leave of absence shall be limited to one year.
- C. An employee on temporary promotion shall not be placed on promotional probation. Upon return from temporary promotion, an employee shall serve the remainder of any uncompleted probationary period in the employee's former class and shall have the step status and merit increase eligibility date he or she would have achieved if the employee had remained in the lower class throughout the period of his or her service in the higher class.
- D. At the end of the employee's assignment to the higher class, the employee shall have the right to return to his or her former class and Department.

#### Section 5. Reemployment of Employees on Disability Retirement

- A. The County will advise employees retired for disability to contact the Orange County Employees Retirement System (OCERS) to determine the impact of reemployment on their disability retirement benefits prior to accepting reemployment.



- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:
1. a person appointed to a regular position in the County service shall be removed from the list;
  2. a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;
  3. a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

Section 6. Reemployment of Regular Employee

A regular employee who leaves County employment and is reemployed within fifteen (15) calendar days shall be deemed to have been on Departmental Leave for such period of time.

Section 7. Time Off for Selection Procedures

A regular, limited-term or probationary employee shall be entitled to necessary time off with pay to participate in tests of fitness, examinations and interviews required by the Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) agency/department to another.

## ARTICLE IV LEAVE PROVISIONS

The County may reopen negotiations on this Article for the purpose of clarifying and streamlining language for understandability.

### Section 1. Sick Leave

#### A. Accumulation of Sick Leave

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regularly scheduled workweek or period to a maximum of eighty (80) hours in a pay period (approximately seventy-two [72] hours per year).
3. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period to a maximum of eighty (80) hours in a pay period (approximately ninety-six [96] hours per year).
4. Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates County service.

#### B. Permitted Uses of Sick Leave

Sick leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury, or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the Department.
3. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the County that the presence of the employee on duty would endanger the health of others.
4. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband,

registered domestic partner, child, stepchild, grandchild, grandparent, legal guardian or any other relationship as required by law.

5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member;; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days or 24 hours per year, whichever is greater. For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

The first three (3) days or 24 hours, whichever is greater, of paid sick leave taken each 12 month period will be considered sick leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

7. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
  - a. The illness or injury of the employee was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
  - b. The employee must notify his or her supervisor within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave, whichever is sooner, to request that his or her illness on vacation be charged to sick leave.
  - c. The Department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
  - d. Except as prohibited by law upon the employee's return to work, the employee must furnish the Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
8. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.

9. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

C. Prohibited Uses of Sick Leave

Sick leave shall not be applied to:

1. Absence caused by illness or injury to a member of the employee's family except as provided in B.4., B.5., or B.6., above.
2. Absences which occur on a County holiday.

D. General Provisions

1. Except as prohibited by law, an employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition, or medical or dental office calls when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
2. Employees hired on or after July 15, 1977 shall not be eligible for any payoff of sick leave. Employees hired before July 15, 1977 are eligible for sick leave payoff under the following conditions:
  - a. Upon paid County retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused sick leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Sick Leave Paid For</u>
Less than 5 years	None
5 but less than 10	25%
10 but less than 15	50%
15 but less than 20	75%
20 or more	100%

Years of service as used herein shall be the equivalent of full-time continuous service in a regular position. Employees who elect to take deferred retirement shall not be eligible for any benefits provided by this paragraph.

- b. Not more than once in each fiscal year, an employee hired prior to July 15, 1977, who as of date of request, is eligible for Tier I paid retirement and who has accumulated unused sick leave in excess of two hundred eighty (280) hours shall, upon request, receive a payoff for up to one third (1/3) of all his or her accumulated sick leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of sick leave paid shall be computed based on years of continuous service in accordance with Section 1.D.2.a., above. The employee's sick leave balance will be reduced by the total number of hours elected and approved for payoff by the employee prior to the application of the eligible percentage described in Section 1.D.2.a.
3. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the Department, apply the period of previous County continuous service for the purpose of determining sick leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring to the extent required by law.
4. Notwithstanding any other provision of this Memorandum of Understanding, if an employee is killed in the line of duty, the employee's estate shall be paid for one hundred (100) percent of the employee's unused Sick Leave.

## Section 2. Bereavement Leave

~~Upon request, regular, limited-term or probationary employees shall receive necessary time off with pay, not to exceed forty (40) hours in any one (1) instance, to arrange for or attend a funeral of a member of his or her immediate family. Part time employees will receive twenty (20) hours of leave. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandchild, grandparent or legal guardian.~~

Bereavement leave is paid leave which is available to an employee related to the death of a member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, civil-union partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed forty (40) hours for each death and employees who are in part-time paid status shall receive time off with pay, not to exceed the number of hours scheduled in a

part-time employee's normal workweek in any one (1) instance for each death.

- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. Departmental Leave

Upon request, a regular, limited-term or probationary employee may be granted a Departmental Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of the department except in cases where Official Leave has been authorized pursuant to Sections 10, 11 and 15, below. The Department Head may require that all accumulated compensatory time be used prior to granting of Departmental Leave. If the leave qualifies as Family Leave pursuant to applicable law, the Department Head may require that all sick leave, compensatory leave, vacation time and/or annual leave be used prior to granting Departmental Leave except that the use of sick leave shall be subject to the provisions of Article III, Sections 1.C and D above. The use of earned vacation or annual leave prior to the obtaining of Departmental Leave shall be at the option of the employee.

#### B. Official Leave

1. Upon request, a regular, limited-term or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year except as provided in 2., below. Such Leave may be taken only after an employee's completion of a Departmental Leave provided that granting of a Departmental Leave shall not be a prerequisite to a request for Official Leave. The Department may require that all or a portion of compensatory time, vacation or annual leave be used prior to granting such Leave.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of the Department except that requests for Official Leave which qualify as Family Leave pursuant to applicable law shall be granted to the extent required by such law. If the Department denies the extension of such Leave, the provisions of subsection 5. below, shall not apply.

3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law, shall be granted Official Leave to the extent required by such law. Such leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, sick leave or annual leave have been used:
  - b. When Official Leave is used for all other reasons – after all accumulated compensatory time and vacation accruals or not more than 100 hours of annual leave have been applied toward the absence. The use of annual leave beyond 100 hours shall be at the discretion of the employee, subject to the Annual Leave provisions.
4. An employee shall give notice two (2) weeks prior to the date he or she wants to return to work, except that an employee returning from Family Leave shall give the lesser of two (2) weeks' notice or the maximum notice allowable under applicable law. If an employee does not give two (2) weeks' notice prior to the date he or she wants to return to work, the Department shall not be required to return the employee to work until the employee gives such notice; however, the Department may waive the notice or reduce the notice period at its discretion.
5. Except as to leave which must be granted pursuant to Sections 10, 11 and 15 of this Article, the eDepartment shall indicate on the request its decision as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Chief Human Resources Officer. He or she shall deliver a copy to the Auditor-Controller and the employee. If the eDepartment modifies or does not approve a request for Official Leave, the employee may, within fifteen (15) calendar days of said action, file a request for review with the Chief Human Resources Officer. The Chief Human Resources Officer shall review the request and make a decision within seven (7) calendar days. The decision of the Chief Human Resources Officer on such appeals shall be final.
6. An Official Leave shall not be deemed a break in County service but such Leave shall not be credited toward continuous service.

### C. General Provisions

1. A request for a Leave of Absence shall be made upon forms prescribed by the Chief Human Resources Officer and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence, and the probable date of return.

2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the employee's department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

#### Section 4. Official Leave for Non-occupational Disability

- A. A regular, limited-term or probationary employee shall be granted, upon request, an Official Leave of Absence Without Pay for up to six (6) months for a non-occupational disability, including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement covering diagnosis, prognosis, expected date of return and period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued sick leave, compensatory, vacation time, and annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee shall request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, an employee shall not be entitled to more than one (1) such Leave per twelve (12) month period.

#### Section 5. Absences Caused by Medical Conditions

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to medical condition, shall not be permitted to resume work until and unless the employee obtains a medical clearance from a physician designated by the County.



## Section 6. Jury Duty Leave

A regular, limited-term or probationary employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the County Treasurer. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. Any hours worked beyond the regularly scheduled workday shall be subject to the workweek provisions set forth in Article I.

## Section 7. Witness Leave Not Related to Employment

A regular, limited-term or probationary employee who is called to answer a subpoena, which is not related to employment, as a witness for court appearances, during the employee's work hours, except where the employee is a litigant, shall be compensated at his or her regular rate of pay for all hours of absence from work due to answering the subpoena provided the employee deposits witness fees received for such hours, exclusive of mileage, with the County Treasurer. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

## Section 8. Leave for ACLEM Business

- A. The County shall allow an employee up to five (5) working days absence without pay during each payroll year for the term of this Agreement to perform official ACLEM business, provided that:
1. ACLEM shall make such a request to the employee's Department Head at least ten (10) days in advance.
  2. ACLEM shall not request that such Leave be effective for more than four (4) employees on any workday.
  3. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

## Section 9. Absence Without Authorization

- A. Absence without authorization, whether voluntary or involuntary, for three (3) consecutive working days shall be considered an automatic resignation from County employment as of the last date on which the employee worked or the last date the employee was to return to work from an authorized absence.
- B. If an employee does not have prior authorization to be absent from work, such employee may request specific authorization from the Department Head prior to the expiration of the time limit specified in A., above.

- C. When an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, at least ten (10) calendar days prior to accepting and entering an automatic resignation, the County shall send written notice to the employee's last known address by certified mail with return receipt requested, and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:
1. a statement of the County's intention to accept and enter the employee's automatic resignation, the date the County plans to take this action and its effective date as determined by A., above;
  2. a statement of the reasons for considering the employee to have automatically resigned;
  3. a statement of the employee's right to respond, either orally or in writing, prior to the date the County plans to accept and enter the automatic resignation;
  4. a statement of the employee's right to representation;
  5. a copy of the automatic resignation provisions which apply to the employee;
  6. a statement that if the employee fails to respond to the written notice before the date the County plans to accept and enter the automatic resignation, the employee has waived any right to appeal the automatic resignation.
- D. An automatic resignation shall not be accepted and entered if the employee: 1) responds to the notice before the date the County plans to accept and enter the automatic resignation; 2) provides an explanation satisfactory to the Department as to the cause of the unauthorized absence, the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons; and 3) is found by the Department to be ready, able and willing to resume the full duties of his or her position.
- E. An employee who is permitted to continue his or her employment pursuant to C. and/or D., above, shall not be paid for the period of his or her unauthorized absence and shall be treated as if on a Leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the Department determines it is appropriate to use sick leave, compensatory time, vacation, annual leave or other paid leave to cover the absence.
- F. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.

- G. Automatic resignations shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. Parenthood Leave

- A. A regular, limited-term or probationary employee shall be granted upon request a Parenthood Leave Without Pay of up to six (6) months in connection with the birth or legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is within six (6) months before or after the expected date of birth or legal adoption of the child.
  2. Sufficient documentation of such birth or legal adoption is submitted with the request for Leave.
  3. Such employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours.
  4. All accrued vacation and compensatory time and the portion of annual leave subject to 100% payoff has been applied toward the absence.
- B. Unless otherwise required by law, employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.
- C. Sick leave or annual leave must be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article or Section 2.1.a of Article VI - Annual Leave provided the employee has furnished the Department with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
- D. Pregnant employees may also apply for a Non-occupational Disability Leave for the term of disability as provided in Section 4. of this Article.
- E. Parenthood Leave shall not be credited toward continuous service.
- F. For employees on Parenthood Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

Section 11. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XII, Section 1.B., a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave upon exhaustion of 4850 benefits.
- B. Workers' Compensation Leave shall continue until the employee:

1. is determined to be physically able to return to work by a County-designated physician;
  2. is determined to be physically able to return to work with medical restrictions which the [eD](#)epartment can accept;
  3. accepts employment outside the County;
  4. accepts employment in another County position;
  5. is retired pursuant to appropriate Government Code provisions.
- C. An employee on Workers' Compensation Leave and/or 4850 Leave must give notice two (2) weeks prior to the date he or she wants to return to work. If an employee does not give two (2) weeks' notice prior to the date he or she wants to return to work, the [eD](#)epartment shall not be required to return the employee to work until such notice is given; however, the [eD](#)epartment may waive the notice or reduce the notice period at its discretion.
- D. If an employee's Workers' Compensation Leave or 4850 Leave expires and the employee is absent without authorization, the provisions of Section 9. of this Article shall apply.
- E. For employees on Workers' Compensation Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

## Section 12. ACLEM Presidential Leave

- A. The County agrees to grant, if requested, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding except as provided below to the President of ACLEM for the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be a minimum of eight (8) hours.
  2. The Presidential Leave is requested fourteen (14) calendar days in advance. Said notice may be waived by mutual agreement.
  3. ACLEM promptly reimburses the County for all ACLEM President salary expenses incurred during the Presidential Leave.
  4. ACLEM promptly reimburses the County for all benefit expenses incurred during the Presidential Leave.
  5. The employee shall continue to conform to the [eD](#)epartment rules and regulations that are not inconsistent with Presidential Leave.
  6. There is not a compelling need for the employee to perform County work.

7. The employee's performance meets standards.
  8. When the duration or frequency of Presidential Leave is such that the employee's absence imposes a hardship on Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, sick leave, and annual leave accrual rates will apply to the employee as though he or she were on duty status.
  - C. The probation period, if applicable, shall be extended by the length of Presidential Leave. The extended probation period shall end on the first day of the pay period following said date.
  - D. The employee's eligibility for promotional examinations shall not be affected by Presidential Leave.
  - E. In the event emergency recall of employee becomes necessary, Presidential Leave may be suspended or cancelled during the course of the emergency. ACLEM shall not be obligated for reimbursement cost listed in A.3. and A.4 above, for the period that Presidential Leave is suspended or cancelled. [The P](#)rovisions of A.1. through A.8., above, shall be suspended during said emergency recall.
  - F. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, compensatory time, and/or sick leave to an employee who is required to be on an extended unpaid leave due to a catastrophic medical condition or other serious circumstances.

### Section 14. Family Leave

#### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the California Family Rights Act (CFRA). Unless

otherwise provided by this Section, “family leave” under this Agreement shall mean leave pursuant to the FMLA and CFRA.

2. Family leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability due to pregnancy, childbirth or related medical conditions;
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement;
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child);
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces;
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or “next of kin” who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
  
3. Employees must request and identify their need for Family Leave. The County and ACLEM agree that certain other types of leave available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family Leave shall not exceed twelve (12) work weeks for situations covered by Subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act. A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. When a request for Family Leave is approved, the Department shall determine whether sick leave, compensatory, vacation time and/or annual leave is to be applied. Such determination shall be consistent with other leave provisions of this Agreement. Regardless of the determination an eligible employee may choose to substitute sick leave, vacation, annual leave or compensatory time for unpaid Family Leave. Paid leave will run concurrently with unpaid Family Leave when taken for an FMLA/CFRA qualifying event.

#### B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the Department with thirty (30) calendar days notice of his or her intent to take Family Leave.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no such case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to Department operations.

#### C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the

employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.

2. Employees who request leave to care for a covered service member who is a child, spouse, parent, registered domestic partner, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active or called to active duty in a foreign country with the dates of active duty services. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.



ARTICLE V      VACATION| Section 1. Accumulation of Vacation

- A. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
- B. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0577 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred twenty (120) hours per year). Part-time employees will earn vacation on a pro-rated basis. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- C. After an employee in a regular or limited-term position has been paid for six thousand two hundred forty (6240) regularly scheduled hours, the employee shall earn .077 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred sixty [160] hours per year) but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- D. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service, an employee in a regular or limited-term position shall earn .0962 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately two hundred [200] hours per year), under the same terms and conditions as for the prior rate of accrual.
- E. A new employee in a part-time regular or limited-term position shall earn pro rata vacation in fifty-two (52) week segments. At the conclusion of fifty-two (52) weeks of employment, the ratio of regularly scheduled hours paid to two thousand eighty (2080) hours shall be determined. That same ratio shall be applied to eighty (80) hours to establish the amount of vacation to be credited to the employee's account as of the conclusion of the pay period in which the fifty-two (52) week period ended. The employee shall in addition earn .0193 hours of vacation for each hour of pay during his or her regularly scheduled workweek. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- F. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with less than ten (10) years of full-time

continuous service shall be three hundred sixty (360) hours or a prorated amount equal to nine (9) weeks of vacation for part-time employees. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with ten (10) or more years of full-time continuous service shall be four hundred eighty (480) hours and a prorated amount equal to twelve (12) weeks of vacation for part-time employees. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

- A. Not more than eighty (80) hours of paid time may be credited toward accumulation of vacation credit in any pay period.
- B. Effective as soon as practicable following adoption of the MOU, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 hours) may elect to use a maximum of eighty (80) vacation hours during the fiscal year for approved time off.
- B.C. An Official Leave of Absence shall cause the aforementioned ten (10) years (Article IV, Section 1.D.) of full-time County service to be postponed a number of calendar days equal to the Official Leave.
- C.D. When an employee's County service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply towards the required ten (10) years (Article IV, Section 1.D.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- D.E. Additional vacation earned during the period of vacation may be taken consecutively.
- E.F. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- F.G. Vacations shall be scheduled for employees by their Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G.H. No scheduled vacation will be cancelled except in cases of emergency.
- H.I. Illness while on paid vacation will be charged to sick leave rather than vacation only under the conditions specified in Article III, Section 1.B.5.
- I.J. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid vacation from the County service except as an Election Board Officer or Election Night Help.

J.K. An employee separating from County service for reasons other than paid County retirement shall be paid for all accrued vacation in a lump sum payment. An employee who is separating from County service by way of paid County retirement may elect either to take time off for his or her vacation or to be paid for his or her vacation in a lump sum payment.

K.L. Vacation Cash Out Where Employee Has No Annual Leave Balances

During each fiscal year, an employee who does not have annual leave balances may request to be paid for accrued vacation in either one increment or two (2) separate increments. An employee who, through a cash out of annual leave, depletes all annual leave, shall be permitted to cash out vacation leave in the same fiscal year as the year annual leave is depleted up to no more than an aggregate total of 120 hours of vacation and annual leave in the fiscal year. In all other cases in which an employee does not have annual leave balances, the employee may be paid for no more than ninety (90) hours under the following circumstances:

1. If an employee has 390 or less accrued hours of vacation, the employee shall be permitted to cash out up to ninety (90) hours of vacation leave for the fiscal year. Payment shall be made upon request unless the Agency/Department determines it is not economically and/or operationally feasible.
2. If at any time during a fiscal year an employee has more than 390 hours of accrued vacation hours, the employee shall be permitted to cash out up to ninety (90) hours of the allowed annual cash out of vacation leave for the year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

M. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave Balances

During each fiscal year, an employee who has annual leave balances may request to be paid for accrued annual leave in either two (2) separate increments equaling an aggregate total of one-hundred (120) hours or one (1) increment of no more than one hundred twenty (120) hours under the following circumstances:

1. An employee with over 750 hours of accrued annual leave shall be permitted to cash out one-hundred and twenty (120) hours of annual leave in a fiscal year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

2. An employee with 750 or less hours of accrued annual leave shall be permitted to cash out sixty (60) hours of annual leave in a fiscal year upon request. The employee may cash out up to an additional sixty (60) hours of annual leave in a fiscal year if determined by the Agency/Department to be economically and/or operationally feasible to do so at the time of the request. In no event shall an employee be paid for more than 120 hours of annual leave in a fiscal year.
3. An employee shall be permitted to cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of 120 hours, if the employee has more than 390 hours of accrued vacation hours at any point in the fiscal year. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

Example #1: If an employee has 755 hours of annual leave, and the employee currently has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 120 hours of annual leave, but no vacation leave;
2. Cash out 120 hours of vacation, but no annual leave; or
3. Cash out any combination of annual leave and vacation leave to a maximum of 120 hours.

Example #2: If an employee has 700 hours of annual leave, but the employee currently has 390 or less accrued vacation hours, the employee may only cash out up to 60 hours of annual leave. Annual leave in excess of 60 hours, up to a maximum of 120 hours, may be permitted at the discretion of the Agency/Department.

Example #3: If an employee has 60 hours of annual leave and the employee has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 60 hours of annual leave and up to 60 hours of vacation leave.
2. Cash out less than 60 hours of annual leave and up to 120 hours of vacation leave which does not, when added to the annual leave cash out, exceed a total of 120 hours.
3. Cash out up to 120 hours of vacation leave and any amount of accrued annual leave which does not, when added to the vacation leave cash out, exceed a total of 120 hours.

#### N. Vacation and Annual Leave Cash Out – Compensation Earnable

Vacation and/or annual leave cash outs are compensation earnable (pensionable) as allowed by law. Members should contact the Orange County Employees Retirement System (OCERS) for further details.

## ARTICLE VI ANNUAL LEAVE PLAN PROVISIONS

These Annual Leave provisions apply only to regular and limited term employees hired on or after July 15, 1977 and before the first full pay period in January 2017, except as otherwise indicated in this Article.

As discussed more fully in Section 3 of this Article, effective the first pay period of January 2017, employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.

### Section 1. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by employee's personal illness, injury, or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the [eD](#) department.
3. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the County that the presence of the employee on duty would endanger the health of others.
4. Absence from duty because the employee's presence is needed to attend to the critical illness of a member of his or her immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, registered domestic partner, child, stepchild, grandchild, grandparent, or legal guardian.
5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or registered domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member, or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days per year. For purposes of this Section "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).
7. Absence from duty because of personal business.

8. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
- B. Except as restricted by law, an employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the eD department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 2. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. Vacations (annual leave) shall be scheduled for employees by their eD department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- C. The parties agree that the Annual Leave Plan shall not impact compensation, compensation earnable, or final compensation as defined by the 1937 Retirement Act, above or below that to which employees would have been entitled prior to this agreement. If a court should decide that benefits under this plan, or analogous benefits, increase compensation, compensation earnable, or final compensation above that to which employees would have been entitled prior to this agreement, the parties agree to meet and confer regarding employee/employer responsibility for funding said increase. Increased costs shall not be automatically assumed by the County.
- D. No scheduled annual leave will be cancelled by the eD department except in cases of emergency.
- E. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid annual leave from the County service except as an Election Board Officer or Election Night Help.

### Section 3. Payoff of Unused Annual Leave

- A. Payoff of unused annual leave during employment shall be administered according to Article V. Sections 2.K and 2.L.
- B. An employee separating from County service shall be paid in a lump sum payment for the unused annual leave balance as provided below:

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	240 hours maximum paid at 100%
3 but less than 10	360 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 480 hours are paid at 100%; remaining balance obtains cash value of 2% for each year of service, to a maximum of 50% i.e., 10 years of service equals 20% cash value for remaining balance; 25 or more years of service equals 50% of the remaining balance after deducted from 1600 hours maximum.

- C. Notwithstanding the above, no employee may receive a payoff paid at 100% that exceeds 480 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.F; remaining hours, up to the accrual limits specified in Article V, Section 1.F, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2), will be considered as a payoff for purposes of this provision.) Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.
- D. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service shall be prorated.
- E. Annual Leave Payout on Retirement

An employee who is separating from County service by way of paid County retirement may elect either to take annual leave as time off, or be paid for his or her annual leave in a lump sum payment under the following conditions:

1. The amount of annual leave which can be taken as time off shall be limited to the amount of hours the employee is eligible to receive at 100% (i.e., 240 hours for employees with less than three (3) years of service, 360 hours for employees with at least three (3) years of service but less than ten (10) years of service, 480 hours for employees with at least ten (10) years of service). If the employee does not take time off or the amount of leave taken as time off does not exceed the amount of hours the employee is

eligible to be paid at 100% the remaining balance, to a maximum of 1600 hours (less maximum number of hours paid at 100%) shall be paid in accordance with payoff provisions set forth in Section 4(B) of this Article.

2. Notwithstanding the above, any annual leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the annual leave payoff provisions set forth above. This provision shall not apply to the use of family leave, workers compensation leave, or other statutorily protected leave during the final two (2) pay periods of employment.
- F. Notwithstanding any other provision of this Memorandum of Understanding, if an ACLEM member is killed in the line of duty (in accordance with Penal Code section 830.5), one hundred (100) percent of the employee's Annual Leave balance will be paid to the employee's estate.

Section 4. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. ~~Effective upon the first pay period in January 2017, e~~Employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.
- B. Annual Leave that has been accumulated prior to the adoption of this MOU may be retained, provided however, that an employee who needs to use sick leave or vacation must first use accrued annual leave prior to use of sick leave or vacation, until all annual leave has been taken. Except for the eighty (80) vacation hours that may be used pursuant to Article V, Section 2.B.
- C. ~~During the 90 day period beginning 30 days after the adoption of this MOU by the Board of Supervisors, employees will have a one-time opportunity to convert annual leave that has been accumulated prior to the implementation of this MOU to sick leave.~~



ARTICLE VII HOLIDAYSSection 1. Holidays Observed

A. Except as modified in Section 1.B., below, County employees shall observe the following holidays:

~~2018~~9: ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 15~~  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 19~~  
~~Memorial Day, May 28~~  
 Independence Day, July 4  
 Labor Day, September ~~3~~2  
 Columbus Day, October ~~8~~14  
 Veteran's Day, November ~~12~~11  
 Thanksgiving Day, November ~~22~~28  
 Day After Thanksgiving, November ~~23~~29  
 Christmas Day, December 25

~~2019~~20: ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 24~~0  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 18~~7  
~~Memorial Day, May 27~~5  
~~Independence Day, July 4~~  
~~Labor Day, September 7~~  
~~Columbus Day, October 12~~  
~~Veteran's Day, November 11~~  
~~Thanksgiving Day, November 26~~  
~~Day After Thanksgiving, November 27~~  
~~Christmas Day, December 25~~

~~2020~~21: ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 18~~  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 15~~  
~~Memorial Day, May 31~~  
~~Independence Day, July 5~~  
~~Labor Day, September 6~~  
~~Columbus Day, October 11~~  
~~Veteran's Day, November 11~~  
~~Thanksgiving Day, November 25~~  
~~Day After Thanksgiving, November 26~~  
~~Christmas Day, December 24 (Observed)~~  
~~New Year's Day, December 31 (Observed)~~

2022: Martin Luther King, Jr.'s Birthday, January 17  
Lincoln's Birthday, February 12  
Washington's Birthday, February 21  
Memorial Day, May 30  
Independence Day, July 4  
Labor Day, September 5  
Columbus Day, October 10  
Veteran's Day, November 11  
Thanksgiving Day, November 24  
Day After Thanksgiving, November 25  
Christmas Day, December 26 (Observed)

2023: New Year's Day, January 2 (Observed)  
Martin Luther King, Jr.'s Birthday, January 16  
Lincoln's Birthday, February 12  
Washington's Birthday, February 20  
Memorial Day, May 29

- B. Except as provided in Section 1.E., below, if a holiday, designated in 1.A., above, falls on a Saturday but is observed on the preceding Friday by the Superior Court, employees who have been designated by the County as being necessary to the operation of said Court may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day, falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. When Christmas Day or New Year's Day falls on a Sunday, the next day (Monday) shall be observed as the holiday unless an employee is required to work on December 25 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday, or for both January 1 and the following Monday.
- F. When Christmas Day or New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday unless an employee is required to work on December 25 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for

both December 25 and the Friday immediately preceding or for both January 1 and the Friday immediately preceding.

Section 2. Eligibility for Holiday Pay

- A. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday in order to receive holiday pay. With County approval, compensatory time earned for working on a holiday or for a holiday falling on a regularly scheduled day off may be taken on the first scheduled working day after the holiday.
- B. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
- C. An employee who elects paid County retirement on a holiday shall be paid for the holiday.
- D. An employee who is terminating employment for reasons other than paid County retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- E. Only regular, limited-term, and probationary employees shall be eligible for holiday pay.

Section 3. Holiday Pay

- A. On each of the holidays designated above, each full-time employee scheduled to work but permitted to take the day off shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work.
- B. A part-time employee scheduled to work but permitted to take the day off shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work.

C. Compensation for Holidays Falling on Scheduled Days Off

- 1. When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of compensatory time.

2. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek to a maximum of eight (8) hours of compensatory time.

**D. Compensation for Work on Holidays**

1. An employee who is required to work on Columbus Day, Veteran's Day, Day after Thanksgiving, Martin Luther King, Jr.'s Birthday, Lincoln's Birthday, or Washington's Birthday and who meets the eligibility requirements contained herein shall receive his or her regular pay for each hour worked.
2. An employee who is required to work on Christmas Day, New Year's Day, Memorial Day, Independence Day, Labor Day, or Thanksgiving Day shall receive pay computed at one and one-half (1 ½) times the employee's basic hourly rate for the number of hours actually worked, to a maximum of eight (8) hours.
3. An employee who is required to work on a holiday and who meets the eligibility requirements contained herein shall receive in addition to pay as provided in D.1. or 2. of this Section compensatory time for each hour worked to a maximum of eight (8) hours.

E. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A. above and holiday compensatory time received under Section 3.C. above shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

E.F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.

F.G. Full-time employees who are on a pay status during the pay period which includes March 1 each fiscal year during the term of this Memorandum of Understanding, shall be credited with two (2) hours of compensatory time at the end of the pay period which includes that date. Part-time employees whose regularly assigned work schedule is at least twenty (20) hours per week shall, in like manner, earn and be credited with one (1) hour of compensatory time.

G.H. Compensatory time earned under the provisions of this Section may be granted as compensatory time off or paid for at the discretion of the County. Employees shall be paid for all compensatory time in excess of eighty (80) hours.

## ARTICLE VIII REIMBURSEMENT PROGRAMS

### Section 1. Mileage Reimbursement

Subject to the current Vehicle Rules and Regulations established by the Board, an employee who is authorized to use a private automobile in the performance of duties shall be paid the Internal Revenue Service standard mileage rate for the business use of a car for each mile driven during each monthly period.

### Section 2. Personal Property Reimbursement

Employees shall, in proper cases, be reimbursed for the repair or replacement of personal property damaged in the line of duty without fault of the employee. the amount of reimbursement for articles of clothing shall be the depreciated value based on the age and condition of the article.

### Section 3. Law Enforcement Transportation Supplement

In recognition of the fact that D.A. Investigative Commanders/Assistant Chief Investigators in the District Attorney's Office drive their private vehicles, on average, in excess of nine thousand (9000) miles per year in the performance of County law enforcement duties, purchase additional liability insurance, transport witnesses and prisoners and incur other miscellaneous expenses, effective August 7, 2015, the County shall pay a five hundred, fifty (\$550) dollar annual transportation expense allowance to D.A. Investigative Commanders/Assistant Chief Investigators employed in the District Attorney's Office as of August 1 of each year who are regularly required to use a private vehicle in their employment. Eligible employees must submit a claim on or before August 31 of each year.

### Section 4. Optional Benefit Plan

- A. Eligibility - a full-time regular, limited-term or probationary employee is eligible to receive the Optional Benefit provided he or she is continuously employed in a full-time capacity. Part-time employees whose normal workweek consists of twenty (20) hours or more will be eligible to receive fifty (50) percent of the Optional Benefit amount available to full-time employees. Employees hired or promoted after the commencement of a plan year will be eligible for the Optional Benefit on a pro-rata basis the first day of the month following the twenty-eighth (28<sup>th</sup>) day of employment in an eligible classification.

An employee on an unpaid leave of absence during the annual Open Enrollment period will be provided the opportunity to make his/her elections for the upcoming plan year. However, if the employee has not returned to work in an eligible status on January 1<sup>st</sup> of the new plan year, his/her elections will be suspended until he/she returns to work. Upon return to work, elections and benefits will be reinstated on a prorated basis, effective the first day of the month following the return to work in an eligible classification.

- B. Each eligible full-time employee shall be entitled to select benefits from those listed below at a cost to the County, and be reimbursed for eligible expenses in an amount not to exceed three thousand five-hundred (\$3,500) dollars, effective the beginning of each calendar year. Eligible part-time employees shall be reimbursed in an amount not to exceed one-half of the Optional Benefit Plan for full-time managers.

The options available shall include the following types of benefits such as:

1. Cash (taxable);
  2. Health/Accident;
    - a. Health care and/or dental expenses which are not reimbursed through any other source (employee and/or dependents) as permitted by state and federal law, regulations, and guidelines, and as permitted by the County's Section 125 Plan Document. Examples of items covered under this provision may include such items as health and dental insurance deductibles, vision care, lenses and frames for eye glasses, and orthodontic treatment;
      - i. Any portion of the Optional Benefit allocated towards the health reimbursement category as outlined in Section 2. a. will be subtracted from the amount the employee is eligible for under the County's Health Care Reimbursement Account (if the employee participates) and subject to state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.
      - ii. Claims shall be made in the manner and/or form designated by the County or its designee, and shall be paid subject to state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan Document.
      - iii. Any portion of the Optional Benefit allocated towards the health reimbursement category in which claims are not incurred within the plan period shall remain County funds.
    - b. Employee's share of Accidental Death and Dismemberment insurance premiums for employee and dependents available through the County. The AD&D premium option will be eliminated not be effective Plan Year 2020 or as soon thereafter as administratively feasible.
  3. The County's Defined Contribution Plan: A pre-tax contribution to the County's Section 457(b) Defined Contribution Plan.
- D. An employee who does not make an election during the election period shall receive a taxable cash lump sum following the close of the election period.

Employee elections are irrevocable unless permitted by state and federal law, regulations and guidelines, and allowed by the County's Section 125 Plan document. For expenses to be eligible, they must be incurred during a plan period in which an employee is eligible. Claims may be filed at any time during the plan period and all claims must be filed no later than March 31<sup>st</sup> of the next year.

- E. The Chief Human Resources Officer or designee shall administer the plan in accordance with the stated purpose and pursuant to state/federal law.

#### Section 5. Uniforms

The County will provide, but will not launder or dry clean, required uniforms for the following classes of employees in the Sheriff's Department:

- Lieutenants
- Captains

#### Section 6. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution.

ARTICLE IX      DISCIPLINARY ACTION

No regular, limited-term, or probationary employee shall receive a disciplinary action except for reasonable cause.

Section 1. Pre-Disciplinary Hearing for Suspension, Reduction, or Discharge

- A. In suspending an employee, reducing a regular, limited-term, or probationary employee, or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
1. a description of the proposed action and its effective date(s);
  2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
  3. copies of material on which the proposed action is based;
  4. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
  5. a statement of the employee's right to representation;
  6. a statement of the employee's right to appeal should such proposed action become final.
- B. Prior to the effective date of such suspension, reduction, or discharge, an employee will be given an opportunity to respond, either orally or in writing, at the employee's option, to a designated [eD](#) department representative with the authority to make an effective recommendation on the proposed disciplinary action.
- C. An employee shall be given reasonable time off without loss of pay to attend a hearing pursuant to this Article.
- D. An employee may represent himself or herself or may be represented by ACLEM in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying, or canceling the proposed disciplinary action on or prior to the effective date of such action.
- F. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 2. and 3. of this Article.



- G. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 4 of this Article.

### Section 2. Suspension

- A. No regular, limited-term, or probationary employee shall be suspended except for reasonable cause.
- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of suspension shall be initiated at Step 2 of the grievance/appeal procedure, except for suspensions imposed by the County Executive Officer, which may be referred directly to arbitration.

### Section 3. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class except for reasonable cause.
- B. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of reduction shall be initiated at Step 2 of the grievance/appeal procedure, except for reductions imposed by the County Executive Officer which may be referred directly to arbitration.

### Section 4. Discharge and Right of Appeal

- A. No regular or limited-term regular employee shall be discharged except for reasonable cause. No proposed discharge shall be affected unless approved by the Chief Human Resources Officer except for discharges imposed by the County Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. A discharge may be appealed to advisory arbitration pursuant to Article X, Section 8. B. or to remedies provided in Article X, Section 9.

### Section 5. Investigatory Meeting

- A. An employee required to attend an investigatory meeting shall receive advance notice of such meeting. Such notice shall include:
1. A statement of the reasons for such meeting, including the subject matter and the fact that the meeting could lead to discipline; and

2. A statement of the employee's right to representation.

- B. All investigatory meetings shall be scheduled to allow an employee a reasonable opportunity to obtain representation. Whenever practicable, such notice shall be given at least three (3) working days prior to the meeting.
- C. An employee may be represented by a representative of his or her choice in an investigatory meeting.

## ARTICLE X GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

### Section 1. Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances are:
  - 1. subjects involving the amendment or change of Board of Supervisors resolutions, ordinances, minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
  - 2. matters which have other means of appeal, but not limited to, matters which may be appealed through the Orange County Merit System Selection Rules and Appeals Procedure or the Workers' Compensation Appeals Board;
  - 3. position classification;
  - 4. performance evaluations with a standard or equivalent rating.

### Section 2. Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a County representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any County representative that he or she does not have the authority to resolve the grievance/appeal, he or she may refer it to the next step in the procedure. By mutual agreement of the County and the employee or ACLEM any step of the grievance procedure may be waived.
- D. The Chief Human Resources Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, department-wide or County-wide basis in an emergency situation. ACLEM may appeal this decision to the Board of Supervisors.
- E. Upon written consent of the parties, i.e., the representatives of the County and the employee or his or her representative, the time limits at any step in the procedure may be extended.

- F. Every reasonable effort shall be made by the employee and the County to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.
- G. No claim shall be granted for retroactive adjustment of any grievance prior to sixty (60) calendar days from the date of filing the written grievance at Step 1.
- H. A grievance alleging discrimination shall first be referred to the County Equal Employment Opportunity (EEO) Office for intake, review, and if applicable, investigation. The grievant, or his/her representative if represented, shall be notified in writing of the grievance being referred to the EEO Office. The timelines for a grievance alleging discrimination shall automatically be tolled until the EEO Office has notified the grievant and/or his/her representative of the disposition of the allegation(s), at which point the time limits for processing the grievance shall resume.

### Section 3. Submission of Grievances

- A. Any employee or group of employees shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- B. If any two (2) or more employees have essentially the same grievance they may, and if requested by the County must, collectively present and pursue their grievance if they report to the same immediate supervisor.
- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the County, appoint one (1) or two (2) employees to speak for the collective group.

### Section 4. Employee Representation

An employee may represent himself or herself or may be represented by an agent of ACLEM in the formal grievance/appeal procedure. If an employee chooses not to be represented by ACLEM, ACLEM may have a representative present during the grievance/appeal procedure and/or arbitration and, if necessary, shall have the right to present ACLEM's interpretation of provisions of this Agreement at issue. Such presentation shall not include the merits of the grievance. The decision of the arbitrator in such case shall not be precedent setting and shall not be admissible in any subsequent dispute between the County and ACLEM.

### Section 5. Time Off for Processing Grievances/Appeals

- A. Reasonable time off without loss of pay shall be given to:

1. An employee who has a grievance/appeal, in order to attend a meeting with his or her supervisor or other person with authority to resolve the matter, as prescribed herein, or to meet with his or her grievance/appeal representative.
  2. An authorized grievance/appeal representative, in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority to resolve the grievance/appeal, as prescribed herein, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through review of appropriate County records relating to the grievance/appeal.
- B. The following restrictions shall apply in all cases to activity authorized in Section 5.A., above:
1. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the grievance/appeal work is completed.
  2. Neither the grievant/appellant nor the grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work unless his or her supervisor determines that such interruption or absence will not unduly interfere with the work of the unit in which the grievant/appellant or representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.
  3. When an authorized grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the representative shall be permitted to do so provided that:
    - a. the representative checks in and checks out with the supervisor of the unit; and
    - b. such investigation does not unduly interfere with the work of the unit.

#### Section 6. Informal Discussion

If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively toward settlement.

#### Section 7. Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein. [For grievances alleging](#)

discrimination, the timelines set forth below shall be tolled as provided in Section 2.H.

Step 1: Department Head

An employee may formally submit a grievance to the Department Head within fourteen (14) calendar days from the occurrence which gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and suggested solution. Within seven (7) calendar days after the receipt of the written grievance, the Department Head or his or her representative(s) shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given to the grievant.

Step 2: Chief Human Resources Officer

If the grievance/appeal is not settled under Step 1 and it concerns:

- a) an interpretation or an application of this Memorandum of Understanding;
- b) a written reprimand; or
- c) a probationary release alleging discrimination or employee rejected from probation for acts of misconduct (to the extent covered by POBR),

it may be appealed in writing to the Chief Human Resources Officer within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction ordered by an Department Head or his or her designated representative may be submitted in writing at Step 2 within ten (10) calendar days after receipt of the notice of suspension and/or reduction. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the Chief Human Resources Officer or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant. The decision of the Chief Human Resources Officer in b or c, above shall be final and binding and shall not be referable to higher County authority or arbitration.

Section 8. Referrals to Arbitration

A. Interpretation/Application of MOU Language

If a grievance is not resolved under Step 2, an arbitration request may be presented in writing to the Chief Human Resources Officer within seven (7) calendar days from the date a decision was rendered at Step 2. As soon as practicable thereafter, or as otherwise agreed to by the parties, an arbitrator shall hear the grievance. If, within three hundred sixty five (365) days of the request for arbitration, the County and ACLEM have not yet initially calendared the appeal with an arbitrator, the grievance is considered withdrawn and finally resolved. The arbitration hearing itself need to not occur within the three hundred sixty five (365) day window.

The parties shall either sign a joint issue submission statement or else execute and sign separate alternative issue statements after discussing the issue(s). In either case, the parties shall send copies of their joint or separate submission statement(s) to each other within fourteen (14) calendar days before the first scheduled date of the arbitration hearing.

B. Appeals of Suspensions/Reductions

1. Submission Procedure

- a. If an appeal from suspension or reduction is not settled at Step 2, a request for arbitration may be presented to the Chief Human Resources Officer within seven (7) calendar days from the date the decision was rendered.
- b. An appeal from any suspension or reduction imposed by the County Executive Officer may be presented to the Chief Human Resources Officer within ten (10) calendar days from the date the action becomes final.
- c. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- d. The issue in all appeals of suspensions/reductions shall be:  
  
Was (employee's name) suspended/reduced for reasonable cause?  
If not, what is the remedy?
- e. As soon as practicable after a suspension/reduction appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal, provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.

2. Findings of Facts and Remedies

An arbitrator may sustain, rescind, or modify an appealed disciplinary action as follows and subject to the following restrictions:

- a. If the arbitrator finds that the suspension/reduction was taken for reasonable cause, he or she shall sustain the action.
- b. If the action is modified or rescinded, the appellant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.
- c. The decision of the arbitrator in matters of suspension/reduction shall be binding on all parties.

C. Appeals of Discharges

1. Submission Procedure

- a. A discharge may be appealed directly to arbitration within ten (10) calendar days from the date the decision was rendered.
- b. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- c. The issue in all appeals of discharge shall be:  
  
Was (employee's name) discharged for reasonable cause? If not, what is the remedy?
- d. As soon as practicable after a discharge appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal; provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.
- e. The arbitrator shall advise that the order of discharge be sustained, modified, or rescinded.
- f. The decision of the arbitrator in matters of discharge shall be advisory and non-binding.

D. Probationary Releases Alleging Discrimination or Probationary Release Based on Acts of Misconduct (to extent provided by POBR)

1. The issue to be submitted to the arbitrator in grievances filed pursuant to Article II, Section 1.C.3, shall be as follows and shall be submitted consistent with Section 8.A., above.
  - a. Was the probationary release of (employee's name) in whole or in part the result of unlawful discrimination by the County?



- b. If so, what shall the remedy be under Article X Section 8.A. of this Memorandum of Understanding?

2. Findings of Facts and Remedies

- a. In the event the arbitrator finds no unlawful discrimination, the grievance shall be denied and the issue of remedy becomes moot.
- b. In the event the arbitrator finds unlawful discrimination, but also finds such violation was not a substantial cause of the employee's probationary release, the grievance shall be denied and the issue of remedy becomes moot.
- c. In the event the arbitrator finds unlawful discrimination, and also finds that the discrimination was a substantial cause of the probationary release of the employee, the arbitrator's award shall depend upon the significance of the violation and shall be in keeping with the following alternatives:
- 1) The probationary release may be sustained.
  - 2) The employee may be reinstated in a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
  - 3) The employee may be reinstated in a position in his or her former class with full back pay and benefits for all of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
- d. The decision of the arbitrator in matters of probationary releases alleging discrimination shall be binding on all parties.

E. General Provisions

1. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except in matters of discharge and when the appealing party solely alleges unlawful discrimination, in which case the County shall bear the full cost. When the grievance involves both discrimination and other arbitral issues, the proper division of costs shall be determined by the arbitrator.
2. Grievance/Appeal hearings by an arbitrator shall be private.
3. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators

shall be obtained from the California State Mediation and Conciliation Service, the American Arbitration Association or some other agreed upon source, and each party shall alternately strike one (1) name from the list until only one (1) name remains.

4. Upon written request by the opposing party in a pending hearing given at least twenty (20) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the request copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than ten (10) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such a request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.
5. An employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend, and their scheduling, shall be reasonable.
6. At the hearing, both the appealing employee and the County shall have the right to be heard and to present evidence. The following rules shall apply:
  - a. Oral evidence shall be taken only on oath or affirmation.
  - b. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify, and to rebut the evidence against the witness. If the employee does not testify in his or her own behalf, the employee may be called and examined as if under cross-examination.
7. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or

hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

8. The County shall be allowed to have one (1) employee, who may be called upon to testify as a witness, present at the arbitration hearing at all times.
9. The parties agree to forego the use of briefs and transcripts whenever practicable.
10. The decision of the arbitrator shall be binding on both parties except in matters of discharge. In matters of discharge the arbitrator's decision shall be advisory and non-binding.

#### Section 9. Court Action

Notwithstanding anything to the contrary in this Article, a discharged employee shall have the right at his/her option, to file an action in a court of competent jurisdiction. Prior to filing such action the employee must exhaust the steps of the grievance procedure set forth in Sections 6. and 7. of this Article. The employee may then elect to appeal the discharge to advisory arbitration or file a lawsuit. In any such action, the employee shall have the right to pursue any claims he/she might have under statutory or common law, and shall not be limited to an action for breach of contract. The County agrees that it will not assert that the employee failed to exhaust his/her contractual remedies. If an employee elects to file suit, the action shall be subject to the applicable statute of limitations.

## ARTICLE XI LAYOFF PROCEDURE

### Section 1. General Provision

This procedure shall not apply to a temporary layoff of less than four (4) consecutive weeks.

### Section 2. Order of Layoff

- A. When a reduction in the work force is implemented, each Department Head shall determine, subject to CEO approval, which employees are subject to layoff based on the needs of the organization.
- B. In considering which employees shall be subject to layoff, consideration shall be given to knowledge and skills related to organizational need and the employee's performance. Where a Department determines that two or more employees' knowledge, skills, and performance are generally equivalent, years of service shall be given consideration.

### Section 3. Notification of Employees

Written notice of layoff shall be given to an employee or sent by mail to the last known mailing address at least fourteen (14) calendar days prior to the effective date of the layoff. Notices of layoff shall be served on employees personally at work whenever practicable.

### Section 4. Voluntary Reduction from Classes Designated as Vulnerable to Layoff Appeal

An employee in a class designated by the County as vulnerable to layoff may request a voluntary reduction to any class provided the employee possesses the minimum qualifications and has passed any required performance tests for the class to which reduction is requested. Such employees shall be placed on the Departmental Rehire List pursuant to Article XI, Section 5.

### Section 5. Rehire Lists

- A. The names of persons laid off shall be placed on a Departmental Rehire List for each class in the occupational series at or below the level of the class from which laid off.
- B. Persons on the Departmental Rehire List for that class will be considered prior to those eligible on other types of eligible lists. If rehire is offered to a class other than that from which the person was laid off, such person must first meet the minimum qualifications and pass any required performance test for that class.
- C. Names of persons placed on the Departmental Rehire List shall remain on the list for two (2) years, except that:

1. A person who rejects or fails to respond within five (5) calendar days to an offer of employment in a particular class shall be removed from the list for that class.
  2. A person who declines referral for an interview in a particular class shall be removed from the list for that class.
  3. A person who retires from the County shall be removed from all lists.
- D. In the event two (2) or more agencies/departments are consolidated while Departmental Rehire Lists are in effect, such lists shall be combined and treated as one (1) list by class in accordance with the preceding provisions. When a transfer of one (1) or more functions of one Department to another Department occurs, employees previously laid off from such function(s) who are on a Departmental Rehire List for the Department losing such function(s), shall be removed from such list and shall be placed on a Rehire List by class for the Department acquiring such function(s) and treated in accordance with the preceding provisions.

#### Section 6. Status on Rehire

- A. An employee who has been laid off under the provisions of this Article and is subsequently rehired in a regular or limited-term position within a two (2) year period from the date of his or her layoff shall receive the following considerations and benefits:
1. All sick leave or remaining annual leave balance credited to the employee's account when laid off shall be restored.
  2. All service hours held upon layoff shall be restored.
  3. All prior service shall be credited for the purpose of determining sick leave, vacation leave, and annual leave earning rates and service awards.
  4. The employee shall be placed in the salary range as if the employee had been on a Leave of Absence Without Pay.
  5. The probationary status of the employee shall be as if the employee had been on a Leave of Absence Without Pay except that a probation period shall be established as determined by Article II, Sections 1.B.1. or 1.B.2., if reemployment is in a higher class or an occupational series different from that employed in at the time of layoff.

## ARTICLE XII ON-THE-JOB INJURIES, WORKERS' COMPENSATION

### Section 1. On-the-Job Injuries

#### A. Medical Treatment

Whenever an employee sustains an injury or disability arising out of and in the course of County employment which requires medical treatment, the employee shall obtain such treatment pursuant to the appropriate California Labor Code sections.

#### B. Disability Payments and Leave

Whenever an employee is compelled to be absent from duty by reason of injury or disease arising out of and in the course of County employment, the employee shall be compensated and placed on Leave pursuant to California Labor Code Section 4850. An employee who is eligible for benefits under California Labor Code Section 4850 shall be placed on 4850 Leave.

### Section 2. Exhaustion of 4850 Benefits

- A. When an employee has exhausted all rights and benefits provided by California Labor Code Section 4850, and such employee continues to be unable to return to work due to an injury or disease arising out of and in the course of County employment, such employee shall be treated in the following manner:
1. he or she shall be entitled to all benefits provided by California Workers' Compensation Law; and
  2. he or she shall be placed on Workers' Compensation Leave pursuant to Article IV, Section 11.; and
  3. at the employee's option, all sick leave, annual leave, compensatory time and vacation shall be added to the workers' compensation temporary disability benefit, if eligible for such benefit, which shall equal one hundred (100) percent of the employee's base salary until such accruals are exhausted; or
  4. if the employee is not eligible for temporary disability or exhausts his or her temporary disability benefit, at the employee's option such accruals shall be continued until they are exhausted. An election to continue accruals shall be irrevocable.
- B. Upon exhaustion of all sick leave, compensatory time and vacation, or annual leave the employee shall not accrue sick leave, vacation or annual leave for the remainder of Workers' Compensation Leave.

- C. The merit increase eligibility date and probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits, except that the first fifteen (15) consecutive calendar days of benefits shall be considered County service for merit increase eligibility and completion of the probation period.
- D. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of sick leave, vacation or annual leave earning rates.

Section 3. Exposure to Contagious Diseases

Whenever an employee is compelled by direction of a County-designated physician to be absent from duty due to an on-the-job exposure to a contagious disease, the employee shall receive full compensation for a period not to exceed eighty (80) working hours for a full-time employee or fourteen (14) calendar days for a part-time employee. If the absence extends beyond the applicable period, annual leave, sick leave, compensatory time, and/or vacation time may be used, at the employee's option, in that order.

ARTICLE XIII MEDICAL INSURANCESection 1. Medical InsuranceA. Medical Insurance Contribution

1. ~~4.~~—ACLEM employees (actives and retirees) will be covered by an AOCDS medical benefit plan.

~~2.~~ ~~2.~~ ~~As stated in the AOCDS MOU, effective the first pay period commencing on and after January 1, 2016 the County will contribute \$1,174 to the AOCDS Medical Insurance Trust per month for each full-time enrolled regular, limited-term and probationary law enforcement management employee on paid status. Effective at the start of the first pay period commencing on or after January 1, 2018, the County shall contribute \$1,280 per month for each full-time enrolled regular, limited-term, and probationary employee on paid status in this unit, except as noted in B, C, D, and E below.~~ Effective at the start of the first pay period commencing on or after January 1, 2019, the County shall contribute \$1,395 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E. below.

~~3.~~ Effective July 2, 2021 the County shall contribute \$1,493 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.

~~4.~~ Effective July 1, 2022 the County shall contribute \$1,591 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.

~~2.5.~~ For newly hired employees, the County contributions will be effective beginning the first day of the month following the date of employment or the insurance start date, whichever is earlier. During the term of this MOU, any negotiated increase to the amount of the County's contribution to the AOCDS Medical Insurance trust as stated in the AOCDS MOU will also be applicable to ACLEM employees.

~~3.6.~~ ~~3.~~—Law enforcement managers who retired after July 1, 1988 will be covered by the AOCDS retiree medical benefit plans. Law Enforcement Managers who retired prior to July 1, 1988 will continue to be covered by the County's health plans.

B. The County's medical insurance contribution for a part-time employee whose normal workweek consists of at least twenty (20) hours shall be one half (1/2) the rate for a full time employee. No contribution shall be made for an employee whose normal assigned hours are reduced to less than twenty (20) hours in a full workweek.



- C. The County shall contribute one half share of the monthly medical insurance contribution for enrolled employees, prorated over twenty-six (26) pay periods each year. The amount of the contribution each month will be based on the number of pay periods in that month. The contributions shall be determined by counting any employee in a paid status during some portion of the pay period.
- D. The County shall contribute the actual costs of coverage for Employee Married to Employee. For two employees to be eligible for enrollment in this status, they must both be working full-time, be enrolled in one health plan, and one employee must enroll as a subscriber and the other as a dependent. The County shall contribute to the AOCDS trust fund when the subscriber is a member of one of these representation units.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to make medical insurance contributions as described in A., B., C. and D., above.

### Section 2. AOCDS Medical Insurance Trust Fund

- A. ACLEM employees will be enrolled in AOCDS medical benefit plans which shall provide medical benefits similar to those offered by the County. All requirements of the AOCDS Medical Insurance Trust Fund and AOCDS health plans as stated in the AOCDS MOU shall apply to ACLEM. Any negotiated change to the AOCDS Medical Insurance Trust Fund requirements and provisions or AOCDS health plans as stated in the AOCDS MOU will also be applicable to ACLEM.
- B. ACLEM shall defend, indemnify and hold the County harmless from any claims or legal action brought by employees in these representation units arising out of, or in any way related to, medical insurance or benefits provided pursuant to this section. This obligation shall not arise with respect to any claim or legal action brought by ACLEM or employees concerning coverage overlap between the respective County and AOCDS plans.
- C. Employees eligible for coverage under a County health plan as a result of change of County representation unit shall be enrolled without regard to pre-existing conditions of illness or injury for plan benefits for themselves or their enrolled dependents.

### Section 3. Other Insurance Coverage

The County will provide to all full time regular, regular limited-term and probationary employees the following provided the employee's normal workweek consists of at least forty (40) hours:

- A. Life Insurance and Accidental Death and Dismemberment Insurance

1. Basic life insurance and accidental death and dismemberment insurance in the amount of one hundred thousand dollars (\$100,000) per full-time employee without proof of insurability. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to Imputed Income requirements as required by law.
  2. Employees will have the option to purchase additional life insurance coverage options without proof of insurability if purchased within thirty (30) days of eligibility. Some levels of additional life insurance coverage, or any additional life insurance coverage purchased after thirty (30) days of eligibility require proof of insurability. Employees will have the option to purchase additional supplemental life and accidental death and dismemberment coverage including dependent coverage. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to imputed income requirements as required by law.
- B. Short-Term Disability Insurance Plan at no cost to the employee, to provide, after sick leave, or 192 hours of annual leave for full-time employees or 96 hours of annual leave for part-time employees (whichever is applicable, depending on which leave plan employee is covered by) is exhausted, sixty (60) percent of salary for up to one (1) year for certified non-occupational injury or illness. If the employee applies more than 192 hours of annual leave or 96 hours of annual leave for part-time employees toward the absence, eligibility for Short-Term disability will begin when that portion of annual leave is exhausted. The plan will also provide for continuation of the County's share of premiums for health, dental and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
- C. Long-Term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
- D. The County will provide dental insurance for the employee and dependents to all full-time regular, limited-term, and probationary employees.

Part-time regular, limited-term, and probationary employees will have the option of purchasing dental insurance for the employee and dependents by paying one-half the monthly rate paid by the County for full-time employees, provided the employee's normal workweek consists of at least twenty (20) hours.

#### Section 4. Premium Only Plan

The County will administer a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted by state and federal law, regulations, and guidelines. Under the plan, an employee's gross taxable salary will be reduced

by the amount of his or her share of the premium costs of County-provided health insurance coverage as permitted by state and federal law, regulations, and guidelines.

## Section 5. Retiree Medical Plan

Effective August 1, 1993, and as amended herein by the Board of Supervisors, the County shall administer a Retiree Medical Plan (Plan) for employees to include a Retiree Medical Grant (Grant) or a lump sum benefits (Lump Sum) as set forth below. New employees hired on or after June 19, 2009 are not eligible for the Grant. New employees hired on or after June 23, 2006 are not eligible for the Lump Sum.

### A. Retiree Medical Grant

1. Effective August 1, 1993 and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person. Upon paid County retirement, an eligible retiree who meets certain eligibility requirements of the Plan shall receive a Grant. The Grant may be applied only towards the cost of retiree and dependent coverage in an AOCDS health insurance plan and/or Medicare Part B premiums as provided below.
  - a. Upon implementation for eligible retirees, the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service to a maximum of twenty-five years. In each calendar year, the amount of such Grant shall be adjusted by the average percentage increase in County retiree health plan premiums, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
    1. The accruals of years of service towards the Grant amount for employees were frozen as of June 19, 2009 (the beginning of the pay period of Board adoption).
  - b. The Grant will be adjusted as follows:
    1. The Grant for all eligible retirees (including retirees on disability) and surviving dependents will be reduced by fifty percent (50%) the first day of the month the retiree or surviving dependent becomes eligible for Medicare Part A without paying a premium) and Medicare Part B, or immediately if the retiring employee is eligible for Medicare

Part A (without paying a premium) and Medicare Part B, as of the date of retirement.

2. The Medicare reductions in provisions A.1.b.1 do not apply to a retiree or surviving dependent eligible for the Grant who was retired and was eligible for Medicare Part A (if eligible at no cost) and Medicare Part B on or before September 26, 2006.
- c. All employees who become eligible for a Grant shall be provided a one (1) time opportunity of at least thirty (30) days from the date they retire to enroll in an AOCDS offered health plan or Medicare. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any eligibility for a Grant, if eligible, and enrollment in a County offered retiree health plan.

#### B. Retiree Medical Plan Lump Sum: Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with B. 2. below.
2. An employee who was employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County or AOCDS-offered health plan and/or receipt of a Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

#### C. Eligibility Requirements for Retiree Medical Grant

1. Retiree must be retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS). Employees hired on or after June 19, 2009 are not eligible for the Grant. For an employee who was continuously employed by the County prior to June 19, 2009, any hours of service performed in periods on or after June 19, 2009 shall be included as a part of the credited service towards the Grant eligibility requirements if the employee is continuously employed by the County from June 19, 2009 until his or her

retirement. Accrual towards the Grant amount is frozen as set forth in Section 5.A.1.a.1.

Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a., b., c., and d., below:
  - a. A retiree who was hired before June 19, 2009 and receives a service-connected disability retirement pension through OCERS shall be eligible for a Grant regardless of their actual years of credited County service. Their Grant shall be based upon the actual years of credited County service.
  - b. A retiree who was hired before June 19, 2009 with a minimum of five years of credited County service who receives a non-service connected disability retirement pension through OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension through OCERS shall not be eligible for a Grant.
  - c. A separated employee with less than ten (10) years of credited County service who has requested a service or non-service connected disability retirement pension through OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the OCERS grants a disability retirement.
3. All eligible retirees and enrolled dependents who are age sixty-five (65) or older, or Medicare eligible (i.e. early Medicare), must be enrolled in Medicare Part B in order to be eligible for the Grant. All eligible retirees and dependents who are entitled to Medicare Part A coverage at no cost must be enrolled in Medicare Part A to be eligible to receive the Grant.
4. Deferred Retirement
  - a. An employee who is eligible for paid retirement at the time he or she separates from County service, but elects deferred retirement, may defer participation in the Grant until such time as he or she becomes an active retiree.

- b. An otherwise eligible employee who is not eligible for paid retirement at the time he or she separates from County service but is eligible for and elects deferred retirement shall not become eligible for participation in the Grant.
5. For purposes of this Section, a full year of credited service shall mean those regular hours the employee worked for the County as a regular, limited-term and/or probationary employee. Two thousand eighty (2080) regular hours, exclusive of overtime, shall equal one full year of service. Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

1. A surviving dependent of a retiree who was eligible to receive a Grant, as stated above in A through C, shall be eligible for fifty (50) percent of the Grant authorized for the retiree.
2. A surviving eligible ACLEM retiree who qualifies for a monthly retirement allowance who was married to an ACLEM, AOCDS, or County retiree who was also eligible for a Grant shall receive the survivor benefit described in D.1., above, or his or her own Grant, whichever is greater. A retiree may not receive both a benefit as a surviving dependent, as stated in D.1. and his or her own Grant.

#### E. Employee Contribution

1. Except as provided in E.2., E.3., and E.4. below, effective June 19, 2009, employees shall continue to contribute three and six-tenths percent (3.6%) of their bi-weekly base salary, exclusive of overtime and premium pay, to offset the Annual Required Contribution (ARC) to continue the Grant for eligible retirees. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
2. Except as provided in E.4. below, employees hired on or after the first day of the first full pay period that falls in the month after Board adoption of a Resolution adopting the "3% at 55" safety retirement formula shall contribute two percent (2%) of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the Retiree Medical Program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
3. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% @ 50" safety retirement

formula shall have their ARC contribution reduced from 3.6% to 1.6% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

4. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% at 55" safety retirement formula shall have their ARC contribution reduced from 2.0% to 0% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

#### F. General Provisions

1. AOCDS shall administer the health insurance program for retirees of this unit, subject to the requirements set forth in this section.
2. Retiree health plan premiums shall be 10% higher than active employees' health plan premiums.
3. AOCDS and ACLEM shall provide to the County all information necessary for the County to administer the Plan including, but not limited to, retiree health insurance enrollment information, verification of Medicare enrollment and verification of the premiums for all health insurance plans.

#### G. Health Reimbursement Account

Effective October 12, 2007, the County established a Health Reimbursement Account (HRA) for current and future employees. Members of ACLEM began participation in the HRA on June 19, 2009. The County and the HRA administrator, with the oversight of the Health Reimbursement Account Advisory Committee, shall administer the program subject to the requirements set forth in the Internal Revenue Code and the Health Reimbursement Arrangement Plan Document.

1. Effective June 19, 2009, employees began contributions of one (1) percent of their bi-weekly base salary, exclusive of overtime and premium pay, to fund their Health Reimbursement Account Plan.
2. Effective June 19, 2009, the County began contributions of one (1) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.
3. Effective November 11, 2016, the County began contributions of two (2) percent of each eligible employee's bi-weekly base salary to fund their

Health Reimbursement Account Plan. The employee contribution referenced in subsection 1 above, shall be reduced from one (1) percent to zero (0) percent.

4. Effective as of July 6, 2018, the County will contribute four (4) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.

#### Section 6. Reopener and Responsibilities of Parties as a Result of ACA

The County may reopen negotiations on this Article and other provisions of the MOU (e.g., Optional Benefits program in Article VII, Section 4, Flexible Spending Accounts in Article XX), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits).

The Parties acknowledge that ACLEM members are enrolled in health plans administered by AOCDS. The parties are uncertain about the issues referred to above, but expect that these issues will be addressed in future negotiations between the County and AOCDS.

ACLEM agrees to be bound by any agreements between the County and AOCDS reached as to these issues with the understanding that it may be necessary to modify any such agreements to reflect differences that exist between the bargaining units regarding levels of payments made, etc.

ACLEM agrees to ensure that the County receives any and all information necessary for the County to complete reporting under IRC [sections](#) 6055 and 6056 or other reporting as required by [the](#) Patient Protection and Affordable Care [Act](#) or any other state or federal requirements.

If any fees, assessments or penalties are charged to the County (as the employer) as a result of any failure to meet the health care reform requirements outlined above in conjunction with the health care benefits provided by the AOCDS medical plan Trust, ACLEM agrees to be bound by any agreement reached between the County and AOCDS regarding payment of said fees, assessments or penalties.



For the purposes of distributing any potential rebates received under the Minimum Loss Ratio rules, the County will use any such rebates to reduce the premium share for members covered by the benefit plan or option generating the rebate.

## ARTICLE XIV SAFETY

### Section 1. General Provisions

- A. The parties recognize that due to the nature of law enforcement, employees are required to work under conditions dangerous to the employee's health or safety.
- B. Nonetheless, the County shall make a reasonable effort to provide and maintain a safe place of employment. Employees shall be alert to unsafe practices, equipment, and conditions and report any such unsafe practices, equipment or conditions to their immediate supervisors. Employees shall follow safe practices and obey reasonable safety rules during the hours of their employment.
- C. Any employee who either does not receive an answer to a safety-related question from his or her supervisor within three (3) days or receives an answer which the employee deems unsatisfactory may directly contact the County Safety Officer.
- D. Any employee who is directed to perform a task which the employee in good faith feels is unsafe may request an immediate investigation from the Safety Officer. During the period that the Safety Officer is conducting an investigation, the employee will be assigned to other work at no loss of earnings. If the Safety Officer concludes the task complained of is safe, the employee shall perform the work as instructed.
- E. The County shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- F. Wherever practicable, the County shall provide the necessary first aid kits in each location.
- G. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2. Abatement of Violations

In any instance in which the County is cited for a violation of CAL/OSHA, the County shall abate the cited hazard to health or safety within the abatement period required.

ARTICLE XV PAYROLL DEDUCTION OF DUES AND INSURANCE  
PREMIUMS AND EMPLOYEE INFORMATION LISTING

Section 1. Payroll Deduction/Membership

A. Each employee in the Representation Unit hired by the County on or after June 1, 2018, must make an affirmative election in order to become a member of ACLEM. ACLEM must notify the County in writing of any new employee that joins.

B. ACLEM shall notify the County, in writing, as to the amount of dues, deductions and service fees required of members of ACLEM and also the amount of insurance premiums required of employees.

C. ACLEM must notify the County of any employee requesting to be removed from ACLEM membership. ACLEM will indemnify the County from any claim that fees were wrongfully collected as the results of its failure to notify the County of membership changes.

D. The County shall rely on the notification of new membership and election of dues deductions supplied by ACLEM. ACLEM will indemnify the County from any claim of wrongful deduction made by an employee based on the County's reliance on the notice provided.

E. Pursuant to the notification provided by ACLEM in Section 1.A. and B. above, the County will deduct the amount of dues, deductions, service fees, and insurance premiums as determined by ACLEM and any change shall be implemented by the County in the first pay period which commences thirty (30) days after written notice of the change is received by the Chief Human Resources Officer.

F. ~~Membership dues of ACLEM members in this representation unit and insurance premiums for such ACLEM sponsored insurance programs as may be approved by the Board of Supervisors, shall be deducted by the County from the pay warrants of such members.~~ The County shall promptly transmit the dues, deductions, service fees, and insurance premiums so deducted to ACLEM.

G. The foregoing is to reflect the parties understanding of its rights, responsibilities, and duties under the following statutes:

Government Code Sections 1152, 1157.3, 1157.12 and SB 866.

The parties are not waiving their rights under these statutes, all of which are reserved.

H. Dues, deductions, and service fees include, but are not limited to, "membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization" per Government Code section 1152 and "dues in, or for any other service,

program, or committee provided or sponsored by, any employee organization” per Government Code section 1157.3.

~~B. ACLEM shall notify the County, in writing, as to the amount of dues uniformly required of all members of ACLEM and also the amount of insurance premiums required of employees who choose to participate in such programs.~~

## Section 2. Employee Information Listing

Upon request, to a maximum of two (2) times per fiscal year during the term of this Memorandum of Understanding, the County shall provide ACLEM with a complete and current listing of all employees in the Units represented by ACLEM. Such listings shall include employee name, job classification, department, timekeeping location, salary range and step. ACLEM agrees to pay one dollar and fifty cents (\$1.50) per page to offset the cost of providing such listings.

ARTICLE XVI EMPLOYEE RIGHTS

Section 1.

The County shall not take any action against an employee for exercising any rights, or receiving any benefits, provided for in this Memorandum of Understanding.

Section 2.

The rights provided for in the Public Safety Officer's Procedural Bill of Rights Act are not superseded, waived or in any other manner diminished by any term or condition of this Memorandum of Understanding.

Section 3.

Prior to answering questions posed by an investigating officer conducting an investigation that could reasonably lead to punitive action, or being required to submit a written report, an employee, upon request, will be given the opportunity to contact ACLEM to determine his/her representational rights.

ARTICLE XVII NONDISCRIMINATION

Section 1.

The County and ACLEM agree that the provisions of this Memorandum [of Understanding](#) shall be applied to employees without discrimination as required by state and federal law.

Section 2.

ACLEM shall not discriminate in membership or representation as required by state and federal law.

ARTICLE XVIII DEFINED COMPENSATION

An employee in a regular or limited-term position may, at his or her request, participate in the County's Section 457(b) Defined Compensation Plan.

ARTICLE XIX SEPARABILITY

| In the event that any provision of this Memorandum [of Understanding](#) is declared  
| invalid by any court of competent jurisdiction, such decision shall not invalidate the  
entire Memorandum [of Understanding](#), it being the express understanding of the  
parties hereto that all other provisions not declared invalid shall remain in full force  
and effect.



ARTICLE XX FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

Section 1. Dependent Care Reimbursement Account

The County will administer a Dependent Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's dependent care reimbursement account to pay for dependent care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account

The County will administer a Health Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's health care reimbursement account to pay for health care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

## ARTICLE XXI RETIREMENT

### Section 1.

Eligible employees of this Unit are included in the Orange County Employees Retirement System as determined by their date of entry into eligible County service.

### Section 2.

Effective as of July 10, 2015, employees pay their full member contributions; the County no longer pays toward safety member employees' retirement contribution.

### Section 3.

Members' normal and cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors, and in accord with the provisions of this MOU.

### Section 4.

Effective June 28, 2002, the County implemented the 3% at 50 safety retirement formula for current active employees for all years of service as specified under the applicable Government Code Sections. Employees hired by the County prior to the implementation of the 3% at 55 safety retirement formula (see Section 5 below) will be in the 3% at 50 safety retirement formula.

### Section 5.

Effective March 16, 2010, all new employees to safety classifications represented by ACLEM, who were not in a Safety Retirement Classification with the County prior to their date of entry into ACLEM and who are not considered "new members" within the meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA"), will be in the "3% at 55" retirement formula, as provided for in Government Code Section 31664.2.

### Section 6.

For Employees Hired on or After January 1, 2013, who are Considered "New Members" Within the Meaning of PEPRA

The PEPRA shall in its entirety be given full force and effect as it may from time to time be mandated by statute, as described below, during and after the term of this 2015-2018 MOU, regardless of any PEPRA provision(s) not being specifically included herein. Any provision in this MOU which contradicts any mandated provision of the PEPRA shall be deemed null and void, with the contrary mandated PEPRA provision(s) being given full force and effect. Therefore, no mandated provision of the PEPRA shall be deemed to impair any provision of this MOU or any MOU predating the 2015-2018 MOU. PEPRA mandated provisions include, but are not limited to the provisions described below:

Unit members who are “new members” as defined by the PEPRA (Government Code section 7522.04(f)), shall be required to pay an OCERS member normal cost contribution in an amount determined pursuant to Government Code Sections 7522.30 and 31620.5 for the Defined Benefit Plan provided for by PEPRA, in which the new member is enrolled.

Those new members shall be enrolled in the 2.7% at 57 Benefit Plan, as provided in Government Code section 7522.25(e), with a final compensation measurement period of 36 consecutive months as set forth in Government Code Section 7522.32(a).

#### Section 7. Tax-Deferred Retirement

The County shall continue the tax-deferred retirement plan, known as 414H(2) for the duration of the Memorandum [of Understanding](#) (unless the Internal Revenue Service rules that 414H(2) is no longer applicable).

ARTICLE XXII COUNTY RIGHTS

The County retains the exclusive right to make all managerial and administrative decisions including, but not limited to, the nature and extent of services to be performed, the methods, means and personnel by which its operations are to be conducted, and such other decisions as may be necessary to organize and operate in the most efficient manner. Such rights shall also include the right to manage and direct the workforce, including the right to hire, select, discipline, transfer, and assign work. Nothing in this provision shall be construed to restrict grievances concerning this agreement or to limit or waive the rights of the parties pursuant to law or this agreement.

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APPENDIX A

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6141ML	Captain
6531ML	Investigative Commander, DA
6534ML	Assistant Chief Investigator, DA