

# MEMORANDUM OF UNDERSTANDING

ADMINISTRATIVE MANAGEMENT UNIT

20194-~~2019~~2023

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY MANAGERS ASSOCIATION

MEMORANDUM OF  
UNDERSTANDING 201~~4~~9 -  
20~~19~~23  
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ORANGE AND  
THE ORANGE COUNTY MANAGERS  
ASSOCIATION FOR THE  
ADMINISTRATIVE  
MANAGEMENT UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Orange County Managers Association as the Exclusively Recognized Employee Organization for the Administrative Management Unit for the period beginning ~~January 10~~June 21, 201~~9~~9 through ~~December 31, 2017 and extended through June 29~~16, 2023.

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 Orange County Managers Association, hereinafter referred to as OCMA, is certified as the Recognized Employee Organization for the Administrative Management Unit. The County hereby recognizes OCMA as the exclusive representative of employees in this unit with respect to wages, hours, and other terms and conditions of employment.

## 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 Orange County Managers Association.

AGENCY/DEPARTMENT HEAD shall mean the person who is the principal officer or employee of an agency, department or district for the discharge of duties provided by law or particular delegated functions.

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.

COUNTY shall mean the County of Orange and special districts governed by the Board of Supervisors.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employee's Retirement System.

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 otherwise indicates and except elected officers.

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.

PRACTICABLE means economically or operationally feasible; reasonably able to accomplish.

PROBATIONARY EMPLOYEE shall mean a person 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 a non-management class to a management class or from one management class to another management class where the maximum rate of the new salary range is higher than the maximum rate of the salary range for the former class.

PROVISIONAL APPOINTMENT shall mean an appointment of a qualified person, who is not a regular, probationary, or limited-term employee of the County, to a regular or limited-term position on a temporary basis.

PROVISIONAL EMPLOYEE shall mean an employee who occupies a regular or limited-term position as the result of a provisional appointment.

REASSIGNMENT shall mean the movement of a regular, limited-term, or probationary employee from one position or assignment in a management class to another position or assignment in the same management classification.

RECRUITING RATE shall be the minimum advertised rate of the salary range allocated to a class unless otherwise authorized by the Department Head.

REDUCTION shall mean the movement of a regular, limited-term, or probationary employee from one management class to another class with a lower salary range.

REGULAR EMPLOYEE shall mean a person 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.

Y-RATE shall mean a pay rate that exceeds the maximum advertised rate for an Administrative Management class.

ARTICLE I WORK PERIOD AND PAY PRACTICESSection 1. Work Period

A.

1. Work Period for Unit Members Other than Probation Managers - The official work period for County employees in this unit shall be seven days (168 regular recurring hours) which start on a Friday (12:00.01am) and end on the Thursday (12:00 midnight) thereafter, except for employees working a 9/80 work schedule for whom the beginning and end of the work period shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different work period may be designated.
2. Work Period for Probation Managers – The official work period shall be 28 days and shall begin at 12:00.01am on each Friday and end at 12 midnight four weeks later.
3. Work Week - Administrative Management employees are not governed by the customary eighty (80) hour work period and may be expected to work more than eighty (80) hours in a given work period or allowed to work less than eighty (80) hours pursuant to the specific dictates of the assignment. The Agency/Department Head shall regulate said work periods based on the needs of the County with due regard to maintaining reasonable and equitable work periods for all employees.

A. If any Administrative 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 Agency/Department Head may request the [Board of Supervisors County Executive Officer](#) to authorize additional compensation for such an employee or group of employees whom the Agency/Department Head determines should receive additional compensation. The rate of such compensation shall be equal to one- eightieth (1/80) of the employee's regular biweekly pay rate for the hours in excess of eighty (80) hours in a pay period.

B. 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.

C. Notwithstanding any other provisions contained herein, Administrative Management 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.

C.D. The parties agree to form a working group and meet by end of the November 2019 for the purpose of discussing the issue of on call pay for managers.

## Section 2. General Salary Provisions

- A. The administrative management salary structure is based on classification placement on a Broadband salary schedule. The structure includes an “advertised minimum” salary rate which increases to an “advertised maximum” salary rate (the control point), and upon approval and adoption of the eligibility criteria by the Board of Supervisors, additional compensation reserved only for outstanding performance.
- B. Manager’s salaries may reach the top of the administrative management “advertised maximum” rate through annual increases provided to eligible management employees.
- C. The outstanding performance component of the Administrative Management salary ranges shall not be used for the purposes of recruiting, market adjustments or other non-performance related reasons. Under no circumstances shall the outstanding performance component of the Administrative Management salary ranges be utilized for salary adjustments outside of a Board adopted and funded performance management program.
- D. See Article XX (Compensation) for other provisions relating to managers’ compensation. Adoption of a new compensation system may alter the foregoing provisions (Section 2A.-C.) regarding employee compensation.

## Section 3. Pay for New Employees

- A. The salary for new employees or newly promoted employees shall normally be at the minimum of the salary range in effect for the particular class or position in which the new employee is hired except as provided in Section 3.B. below.
- B. An Agency/Department Head may authorize that a particular position be filled at any rate within the salary range, up to the top of the advertised maximum rate of the range. In determining the salary offer, the Agency/Department Head shall consider the following:
  - 1. The market demands a greater salary offer;
  - 2. The candidate’s previous education, training, experience and employment references enable the candidate to make an immediate greater contribution to the County;
  - 3. The offer does not negatively impact the department’s budget or internal salary relationships within the Department or Countywide.

## Section 4. Salary on Promotion

- A. Except as modified by Section 4.B. below, a regular, limited-term, or probationary

employee who is promoted to a position in a management class, or who is appointed to a new position within the same management class through a recruitment process, shall generally begin at the minimum advertised rate on the salary range for that class. However, employees shall not receive a decrease in salary on promotion to a management class.

- B. An Agency/Department Head may authorize that a particular position being filled by a promotion, as described in Section 4 (A) above, to be paid at any salary level up to the top of the maximum advertised rate of the salary range for the position. The Department Head shall take into consideration, when making the salary offer, the same factors as outlined in Section 3.B. above. Salary increases of 15% or greater require pre-approval from the Chief Human Resources Officer, the Deputy CEO (for non-elected departments heads), and the CEO.

#### Section 5. Salary on Reassignment

- A. When a regular, limited-term, or probationary employee is reassigned from one assignment to another comparable assignment within the same management class and salary range, the employee's salary shall not change. Such employee shall have the same probation status.
- B. Temporary or permanent movement from one assignment to another within the same management class and salary range shall include salary movement when the incumbent's new, full time temporary or permanent assignment changes as follows:
  1. Incumbent assumes full supervisory responsibility of management or supervision of high-level non-management staff. As determined by the Agency/Department Head, the amount of salary movement is that which maintains at least a 5.5% to 7.5% differential between the highest paid subordinate and supervisor not to exceed the maximum advertised rate of the salary range. Salary increases of 15% or greater require pre-approval from the Chief Human Resources Officer, the Deputy CEO (for non-elected department heads) and the CEO. Performance awards, including lump sum payments, may not be considered as a factor in equity or reassignment adjustments.
  2. Incumbent assumes substantial additional responsibility for an assignment that the Agency/Department Head can document is difficult to fill and/or critical to the Department's operations. The amount of salary movement shall be 5.5% and shall not exceed the maximum advertised rate for the class.
  3. Incumbent assumes substantial responsibility for an assignment that the Department Head determines that the incumbent is the recognized technical expert for a complex, clearly identifiable area. The amount of salary movement shall be 5.5% and shall not exceed the maximum advertised rate for the class.



- C. A regular, limited-term, or probationary employee moving from one assignment to another assignment while remaining in his or her current classification may receive an increase that exceeds the 5.5% maximum if:
- The new assignment's responsibilities are *significantly* greater than the prior assignment.
  - The manager has been selected for the new assignment through a competitive process.
  - The request for an increase above the 5.5% maximum has been justified in writing and received approval by the Chief Human Resources Officer prior to the appointment.

Increases shall not exceed the maximum advertised rate for the class.

- D. An Administrative Manager may only be granted one (1) salary increase (as outlined in Section 5.B. above) within a twelve (12) month period while serving in the same job assignment. However, a second salary increase may be granted within the twelve (12) month period if the additional assignment and pay are approved in writing by the applicable Agency/Department Head, the Chief Human Resources Officer and the CEO.
- E. When an employee whose salary was adjusted as a result of temporary or permanent movement from one assignment to another assignment as outlined in Section 5.B. above and the assignment ends or the employee does not perform satisfactorily in the new assignment, the incumbent's salary shall return to that which he/she would have achieved in his/her prior assignment.
- F. Movement of an employee within the same management class should include development of new performance goals for the new assignment.

## Section 6. Salary on Reduction

### A. Disciplinary Reductions

When a regular, limited-term, or promotional probationary employee is reduced for disciplinary reasons, the employee's salary shall return to that which he/she would have achieved in his/her prior assignment.

### B. Non-disciplinary Reductions

1. Except as provided in Section 6.C., below, when a regular or limited-term employee is reduced for physical disability or other non-disciplinary reasons, the employee shall receive the highest salary in the lower salary range that does not exceed the employee's rate of pay in the higher class or the advertised market rate of the salary range. When a promotional probationary employee is reduced for physical disability or other non-disciplinary reasons, the employee shall have the salary status 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.

2. When a regular, limited-term, or probationary employee is reduced because the position the employee occupied is reclassified, the applicable salary shall be determined as follows:
  - a. If the salary of the employee is the same or less than the maximum advertised rate on the new salary range, the salary of the employee shall not change.
  - b. If the salary of the employee is greater than the maximum advertised rate on the new salary range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum advertised rate on the new salary 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 advertised rate on the new salary range, the salary or rate of the employee shall be reduced to the maximum advertised rate on the salary range for the new class. The duration of the Y-Rate shall begin on the effective date of the reclassification of the position.

#### Y-RATE SCHEDULE

<b><u>Years of Full Time Continuous Service</u></b>	<b><u>Duration of Y-Rate</u></b>
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

- C. When an employee on a Y-Rate takes a voluntary reduction, his or her Y-Rate shall be reduced by the amount of the difference between the maximum advertised

salary on the salary range of the class from which the employee is being reduced and the maximum advertised salary on the salary range of the new class.

#### Section 7. Salary on Reclassification

The salary of a regular, limited-term, or probationary employee whose position is reclassified shall be determined as follows:

- A. If the position is reclassified to a class with the same salary range, the salary of the employee shall be set as in Article I, Section 5., above, Salary on Reassignment.
- B. If the position is reclassified to a class with a higher salary range, the salary of the employee shall be governed by Article I, Section 4., above, Salary on Promotion, or at the discretion of the Chief Human Resources Officer, the salary of the employee shall not be changed.
- C. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be governed by Article I, Section 6., above, Salary on Reduction.

#### Section 8. 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 rate and range the person occupied at the time of separation unless appointment is at an advanced rate pursuant to Article I, Section 3.B.

#### B. Retirees

- 1. A former County employee on paid County retirement may be reemployed for not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, in any one (1) fiscal year under the guidelines and compensation terms set forth in the Working Retiree Reemployment Policy, as adopted by the Board of Supervisors.
- 2. A former County employee on paid County retirement who retired under an early retirement incentive plan may be employed for not more than seven hundred twenty (720) hours in any one (1) fiscal year under the guidelines and compensation terms set forth in the Working Retiree Reemployment Policy, as adopted by the Board of Supervisors.

#### Section 9. Change in Salary Allocation

If a class is reassigned to a higher salary range, the Board, or where appropriate, the Agency/Department Head, shall determine the amount of increase, if any, each employee in the class shall receive, not to exceed a fifteen (15) percent increase.

#### Section 10. Additional Compensation

Notwithstanding anything in this Memorandum of Understanding to the contrary, when in the judgment of the Board it becomes necessary or desirable to utilize the services of County employees in capacities other than those for which they are regularly employed, the Board may authorize an additional rate of compensation for such employees.

Section 11. Election Work

In addition to any other position or positions that are held, an employee may also voluntarily work in a capacity authorized for the Registrar of Voters in the course of an election provided that such election work does not unduly interfere with the employee's regular assignment. Election work shall be compensated at the rate authorized for such work.

Section 12. Premium Pay

A. Night Shift Differential

1. An employee who works an assigned night shift 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.
3. The rate of night shift differential shall be five (5) percent of one-eightieth (1/80) 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 Agency/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.

ARTICLE II        GENERAL PERSONNEL PROVISIONSSection 1.        ProbationA.    New Probation1.    Full-Time Employee

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

B.    Promotional Probation

1. A full or part-time employee who is promoted, except on a temporary promotion, shall be placed on promotional probation, except as provided in B.2., below. A full-time employee shall serve a probation period of fifty-two (52) weeks ending with the first day of the pay period following completion of said period. A part-time employee shall serve a promotional probation period of two thousand eighty (2080) regular paid 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, reduced, or reassigned as a result of the employee's position being reclassified and the class from which the employee is promoted, reduced, or reassigned 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 discretion of the employee's Agency/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.

### C. Failure of Probation

#### 1. New Probation

An employee on new probation may be released from the service at any time without notice, cause, or right of appeal or hearing except as provided in C.3., below.

#### 2. Promotional Probation

- a. An employee on promotional probation may be failed at any time without notice, cause, or right of appeal or hearing except as provided in C.3., below.
- 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 previous class for the purpose of training for a promotion to the higher class.

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 Agency/Department Head shall not have the right to return to his or her former class.

- c. 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.
3. An employee who alleges that his or her probationary release was based on unlawful discrimination by the County may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt of notice of failure of new probation.

### 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, two thousand eighty (2080) hours shall equal fifty-two (52) weeks.
2. When an Agency/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 E.1. of this Article, below, and an employee who is permitted by the Agency/Department to work beyond the end of a probation period shall be deemed to have passed such probation period.

3. An employee who is on probation may not transfer from one (1) Agency/Department to another in the same class without the approval of the Chief Human Resources Officer.

#### 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. 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. Upon recommendation of the Agency/Department or request of the employee with concurrence of the Agency/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. 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 Agency/Department Head shall become a limited-term regular employee.
- C. Limited-term employees hired under programs which involve special employment standards shall serve a new probation period upon transfer to permanent funded positions. Upon transfer to permanent positions such employees shall maintain their original hire date for purposes of vacation, sick leave accrual, annual leave accrual, and retirement. The requirement that such employees serve a new probation period may be waived by the County. Limited-term employees not hired under programs which involve special employment standards shall, upon transfer to



permanent funded positions, maintain their original hire date for purposes of vacation, sick leave accrual, retirement, and new employee probation.

- 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.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Agency/Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Agency/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. An Agency/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 salary status 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 Agency/Department.

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

- A. Employees retired for physical disability who are interested in pursuing reemployment with the County will be advised to contact the Orange County Employees Retirement System (OCERS) to determine the impact of reemployment on their disability retirement benefits.
- B. Employees retired for physical disability who contacted and received advice from OCERS under subsection A above, who within two (2) years from the date of

retirement or date their disability retirement is discontinued, request 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 Agency/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 III      LEAVE PROVISIONSSection 1.      Sick LeaveA.      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.
5. Employees may only accumulate up to a maximum of 1500 hours of sick leave.

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 Agency/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. Absences 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 the time period specified in Labor Code section 233. 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).

5.6. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible

6.7. 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 Agency/Department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
- d. Upon the employee's return to work, the employee must furnish the Agency/Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.

7.8. Absence from duty because of personal business not to exceed ~~thirty~~forty (~~30~~40) working hours during the fiscal year.

8-9. 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. In any use of Sick Leave, an employee's account shall be charged to the nearest quarter hour.
2. 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 Agency/Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. 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.
4. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the Agency/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.
5. Notwithstanding any other provision of this Memorandum of Understanding, if a Probation Safety Manager 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 2. Bereavement Leave

~~Upon request, full-time 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 their 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, registered domestic partner, child, stepchild, grandparent, grandchild, or legal guardian.~~

Bereavement leave is paid leave which is available to an employee related to the death of a family 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, 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 five (5) regularly scheduled shifts for each death, -and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek 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 timeoff 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. Agency/Departmental Leave

A regular, limited-term, or probationary employee may request an Agency/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 Agency/Department except in cases where Official Leave has been authorized pursuant to Sections 9, 10.A., and 11 below. The Agency/Department Head may require that all accumulated compensatory time be used prior to granting of Agency/Departmental Leave. The use of earned vacation or annual leave prior to the obtaining of Agency/Departmental Leave shall be at the option of the employee. If the Leave qualifies as Family Leave pursuant to applicable law, the Agency/Department Head may require that all sick leave, compensatory leave, vacation time, and/or not more than 192 hours of annual leave be used prior to granting an Agency/Departmental Leave except that the use of sick leave shall be subject to the provisions of Article III, Section 1.C. and D., above. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.

#### 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an Agency/Departmental Leave and after all compensatory time, vacation accruals, and not more than 192 hours of annual leave have been applied toward payment of the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
2. An Official Leave of Absence may be extended for up to an additional year at

the discretion of the Agency/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 Agency/Department denies the extension of such Leave, the provisions of subsection 5. below, shall not apply.

3. An employee who is eligible for and requests a valid need for Family Leave pursuant to Article III, Section 11 below 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 192 hours of annual leave have been applied toward the absence. The use of annual leave beyond 192 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 allowable under applicable law. If an employee does not give the two (2) weeks' notice prior to the date he or she wants to return to work, the Agency/Department shall not be required to return the employee to work until the employee gives such notice; however, the Agency/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 9 through 11 in this Article, the Agency/Department 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 employee. If the Agency/Department modifies or does not approve a request for Official Leave, the employee may, within fifteen (15) calendar days of this 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 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 Agency/Department only where the employee is unable to initiate such action, except in cases where the provisions of Section 10. A., below apply.
3. An employee who has been absent without pay due to a Leave granted pursuant to Sections 3, 4, 9, and/or 11 of this Article shall be considered to have automatically resigned his or her employment with the County under the provisions of Section 8., below, unless he or she returns to work at the end of the Leave or receives approval for an extension of his or her Leave.

#### Section 4. Official Leave for Nonoccupational 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 nonoccupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return, and the period of disability, shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued sick leave, compensatory, vacation time, and not more than 192 hours of annual leave have been applied toward the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
  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 eligible 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 may 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 pursuant to this Section per twelve (12) month period.

#### Section 5. Absences Caused by Illness, Injury, or Pregnancy

An employee who is absent from work for a period of more than fourteen (14)

consecutive calendar days due to illness, injury, or pregnancy 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. An employee may request a change in regularly scheduled working hours to a Monday through Friday day shift for the duration of such jury duty. Such requests shall be granted if practicable.

Section 7. Witness Leave

A regular, limited-term or probationary employee who is called to answer a subpoena 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 shows proof of such subpoena and 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. 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 Agency/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 8.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 and its effective date;
  - 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 effective date of such proposed action;
  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 effective date of 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 effective date, 2) provides an explanation satisfactory to the Agency/Department as to the cause of the unauthorized absence and the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons, and 3) is found by the Agency/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 Agency/Department determines it is appropriate to use sick leave, compensatory time, vacation, 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 9. 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 placement for legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is commenced within six (6) months before or after the date of birth or placement for legal adoption of the child.
  2. Sufficient documentation of such birth or placement for legal adoption is submitted with the request for Leave.
  3. Such employee has completed new probation.

4. All accrued vacation and compensatory time and not more than 192 hours of annual leave have been applied toward the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
- 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 must be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article provided the employee has furnished the Agency/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 Nonoccupational 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, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

#### Section 10. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XII, a regular, limited-term, or probationary employee shall be placed on Workers' Compensation Leave. If such determination cannot readily be made, and all sick leave or 192 hours of annual leave has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.
- B. Workers' Compensation Leave shall continue until the employee:
  1. is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
  2. is determined to be physically able to return to work with medical restrictions which the County can accept, and such determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
  3. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.

An employee whose Workers' Compensation Leave ends pursuant to this provision and who does not return to work or obtain Agency/Department approval for an authorized leave of absence shall be considered to be absent without authorization.

- C. If practicable, an employee on Workers' Compensation Leave and/or 4850 leave will 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 Agency/Department shall not be required to return the employee to work until such notice is given; however, the Agency/Department may waive the notice or reduce the notice period at its discretion.

## Section 11. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the 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 (also see Section 9, above);
  - c. Placement of a child for adoption or foster care within one year of the placement (also see Section 9, above).
  - d. Employee's presence is needed to attend to a serious health condition of the employee's child, spouse, registered domestic partner, parent, or a child of an employee standing in "loco parentis" who is either under eighteen (18) years old or adult dependent child incapable of self-care because of mental or physical disability.
  - 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. Requests for Family Leave may also fall under the provisions of Sections 3, 4, and 9, above.
4. The County shall determine if a request for Family Leave is valid within the parameters of applicable law.
5. Terms of Leave
  - a. 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 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.
  - b. 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.
  - c. When a request for Family Leave is approved, the Agency/Department shall determine if annual leave, sick leave, compensatory, and/or vacation time is to be applied and shall determine the order in which such time is

applied. The use of sick leave shall be restricted to those circumstances which qualify under the provisions of Article III, Section 1.B.

#### B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the Agency/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 case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic

partner, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to Agency/Department operations.

C. Verification

1. The County may require 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/her duties because of the condition (if leave is for own serious health condition) or that care is needed (if leave is for a child, spouse, registered domestic partner or parent).
2. Employees who request leave to care for a covered servicemember 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 duty in a foreign country with the dates of active duty service. 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.

Section 12. Leave for OCMA Business

The County shall allow a regular, limited-term, or probationary employee up to five (5) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCMA business, provided that:

- A. OCMA shall make a request to the employee's Agency/Department Head at least ten (10) days in advance.
- B. OCMA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's work.

Section 13. OCMA Presidential Leave

- A. The County agrees to grant, if requested by OCMA, Presidential Leave with pay and without loss of any benefits provided by this Memorandum of Understanding,

except as provided below, to the President of OCMA during 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. OCMA promptly reimburses the County for all OCMA President salary expenses incurred during the Presidential Leave.
  4. OCMA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave.
  5. The employee shall continue to conform to the department 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 Agency/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. OCMA 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. Provisions 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.

ARTICLE IV      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, an employee in a full-time regular or limited-term position shall earn .0577 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately three [3] weeks per year). Part-time employees will earn vacation on a pro-rated basis.

C. Commencing with the pay period following that in which a full-time employee completes three (3) years of continuous County service (6240 hours), a full-time employee in a regular or limited term position shall earn .077 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately four [4] weeks per year). Commencing with the pay period in which a part-time employee completes 6240 hours of continuous County service, a part-time employee in a regular or limited term position shall earn .077 hours of vacation for each hour of pay during his or her regularly scheduled workweek.

~~G. 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 five (5) weeks per year). Commencing with the pay period in which a part-time employee completes 20,800 hours of continuous County service, a part-time employee in a regular or limited term position shall earn .0962 hours of vacation for each hour of pay during his or her regularly scheduled workweek.

E. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employees with less than ten (10) years of full-time continuous County 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 employees with ten (10) or more years of full-time continuous County 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. 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. 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. Additional vacation earned during the period of vacation may be taken consecutively.
- E. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- F. Vacations shall be scheduled for employees by their Agency/Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G. No scheduled vacation will be cancelled except in cases of emergency.
- H. 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. 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. 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. Except as set forth below, during each fiscal year an employee may request to cash out accrued vacation either in two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.
  - 1. Except as set forth in subsection 2 below, an employee may not cash-out vacation time if he/she has at the time of the request a balance of accrued unused annual leave.

2. An employee with an annual leave balance may cash-out vacation time under the following limited circumstances:
  - a. The employee's accrued vacation bank is such that s/he will reach the applicable cap (as set forth in section 1.F above) some time during the fiscal year (ie., the employee has at least 201 hours of accrued vacation if employed less than ten years or at least 281 hours of accrued vacation if employed ten or more years) unless the employee is able to cash-out vacation time.
  - b. (If subsection "a" is satisfied) the employee may cash out vacation time or a combination of annual leave and vacation time twice during the fiscal year up to an aggregate of 120 hours. ~~of vacation time.~~
  - ~~c. If the employee cashes out vacation time under the circumstances set forth above, he/she may not cash out annual leave time during the same fiscal year. Notwithstanding subsection 2.b. above, an employee with less than 120 hours of accrued annual leave, may cash-out their remaining annual leave balance and accrued vacation time necessary to reach the combined annual cash-out cap of 120 hours, irrespective of an employee reaching their maximum vacation accrual cap during the same fiscal year.~~
- L. Notwithstanding any other provision of this Memorandum of Understanding, if a Probation Safety Manager is killed in the line of duty (in accordance with Penal Code section 830.5), one hundred (100) percent of the employee's vacation balance will be paid to the employee's estate.

## ARTICLE V      ANNUAL LEAVE

These Annual Leave provisions apply only to regular and limited-term employees hired on or after July 15, 1977 and before this 2014-17 MOU has been adopted by the Board of Supervisors.

As discussed more fully in Section 4 of this Article, effective upon implementation of this MOU, employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Articles III and IV.

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

#### A. Annual Leave may be applied to:

1. An absence necessitated by the 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 critical 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, or legal guardian.
5. To the extent required by Labor Code section 233, 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). 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).
6. Absence from duty because of personal business.
7. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

#### B. 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 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 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 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. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
1. An employee who has less than 750 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 60 hours of Annual Leave; an additional 60 hours may be requested, with its payout at the discretion of the Department Head.
  2. An employee who has 750 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 120 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 750 hours, at which point cash-out procedures will be governed by Section 3.A.1, above.

3. Notwithstanding subsections 1 and 2 above, an employee may not cash out Annual Leave during the same fiscal year that Vacation Leave is cashed out (See Art. IV, Section 2.K).
- B. An employee separating from County service shall be paid in a lump sum payment for the unused annual leave balance as provided below. Notwithstanding the above, any annual leave taken 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, pregnancy leave, workers compensation leave, or other statutorily protected leave during the final two (2) pay periods of employment.

<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.

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 IV, Section 1.F; remaining hours, up to the accrual limits specified in Article IV, 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 IV, Section 2.J), will be considered as a payoff for purposes of this provision.) Employees with 10 or more years of service will be eligible to receive pro-rated 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. For example, an employee with 18 years of service has 320 hours of accrued vacation and 580 hours of accrued annual leave at the time of separation of service. The employee would be entitled to 480 hours of full pay (320 hours of vacation and 160 hours of annual leave) plus 420 hours of pay (580 – 160) at 36% (18 years x 2%).

- C. 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.
- D. 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% (ie., 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.
- E. Notwithstanding any other provision of this Memorandum of Understanding, if a Probation Safety Manager 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 adoption of this MOU, employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article III, Section 1 and Article IV.
- B. Except as modified in C. below, a 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.
- C. An employee with at least 10 years of continuous full-time County service (20,800 regularly scheduled hours) who has annual leave balances may elect to use a maximum of up to 80 vacation hours of vacation during each fiscal year for approved time off.
- ~~C.~~ D. During the 90 day period beginning 30 days after the adoption of this MOU, employee will have a one-time opportunity to convert annual leave that has been accumulated prior to the implementation of this MOU to sick leave, provided the conversion does not result in the employee exceeding the 1500 hours cap for sick leave.

ARTICLE VI HOLIDAYSSection 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

~~2014~~2019: ~~Martin Luther King, Jr.'s Birthday, January 20~~  
~~Lincoln's Birthday, February 12~~  
~~President's Day, February 17~~ Memorial Day, May 26  
 Independence Day, July 4  
 Labor Day, September ~~1~~2  
 Columbus Day, October ~~13~~14  
 Veteran's Day, November 11  
 Thanksgiving Day, November ~~27~~28  
 Day after Thanksgiving, November ~~28~~29  
 Christmas Day, December 25

~~2015~~2020: New Year's Day, January 1  
 Martin Luther King, Jr's Birthday, January ~~19~~20  
 Lincoln's Birthday, February 12  
 President's Day, February ~~16~~17  
 Memorial Day, May 25  
 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

~~2016~~2021: New Year's Day, January 1  
 Martin Luther King, Jr's Birthday, January ~~19~~18  
 Lincoln's Birthday, February 12  
 President's Day, February 15  
 Memorial Day, May ~~30~~31  
 Independence Day, July 4  
 Labor Day, September ~~5~~6  
 Columbus Day, October ~~10~~11  
 Veteran's Day, November 11  
 Thanksgiving Day, November ~~24~~25  
 Day after Thanksgiving, November ~~25~~26  
 Christmas Day, December 25

~~2017~~2022: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January ~~16~~17  
 Lincoln's Birthday, February 12



President's Day, February ~~20~~-21  
 Memorial Day, May ~~29~~-30  
 Independence Day, July 4  
 Labor Day, September ~~4~~-5  
 Columbus Day, October ~~9~~-10  
 Veteran's Day, November 11  
 Thanksgiving Day, November ~~23~~24  
 Day after Thanksgiving, November ~~24~~-25  
 Christmas Day, December 25

2023:    New Year's Day, January 1  
           Martin Luther King, Jr's Birthday, January 16  
           Lincoln's Birthday, February 12  
           President's Day, 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 Agency/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 Agency/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.

- G. Notwithstanding Sections 1.B through 1.F above, the County may designate holiday observances as follows:
1. When Lincoln's Birthday, Independence Day, Columbus Day, Veteran's Day, 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 the actual holiday (rather than the observed holiday) as part of his or her normal work schedule. In such cases the employee may, with Agency/Department approval, observe the holiday on the actual holiday rather than the observed holiday. Under no circumstances shall an employee receive holiday compensation for both the actual holiday (occurring on Sunday) and the observed holiday (occurring on Monday).
  2. When Lincoln's Birthday, Independence Day, Columbus Day, Veteran's Day, 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 the actual holiday (rather than the observed holiday) as part of his or her normal work schedule. In such cases the employee may, with Agency/Department approval, observe the holiday on the actual holiday rather than the observed holiday. Under no circumstances shall an employee receive holiday compensation for both the actual holiday (occurring on Saturday) and the observed holiday (occurring on the Friday immediately preceding).
  3. Subsections 1 and 2 above will not be implemented unless the County implements the same holiday schedule for other recognized bargaining units (other than AOCDS).

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. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.
- F. 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. 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 VII 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. 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 for eligible expenses in an amount not to exceed one-half of the Optional Benefit Plan for full-time managers.
- C. The purpose of the plan is to provide options to individual employees to best meet the needs of themselves and dependents while enhancing the employee's expertise and skills on the job.

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 3.C.5.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.
    - b. ~~employee's~~ Employee's share of Accidental Death and Dismemberment insurance premiums for employee and dependents available through the County. This option will be eliminated effective for the 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. Except as set forth in Section 3A (above) 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 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 anytime 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 shall administer the plan in accordance with the stated purpose and pursuant to state/federal law.
- F. Any portion of the Optional Benefit not incurred within the plan period shall remain County funds.
- G. 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.

#### Section 4. Educational and Professional Reimbursement

Effective the first day of the first full pay period following adoption of the MOU, the maximum

reimbursement that may be received by eligible employees in one fiscal year shall be \$10,000.

Section 5. Safety Boots

During the term of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## ARTICLE VIII FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

### Section 1. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specified 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.

### Section 2. Dependent Care Reimbursement Account (DCRA)

The County will administer a Dependent Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specified 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.



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 or in reducing a regular, limited-term, or probationary employee for reasons of unsatisfactory performance or physical disability, 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 agency/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 the recognized employee organization 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 for reasons of unsatisfactory performance or physical disability 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 for reasons of unsatisfactory performance or physical disability 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 investigation 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 represent himself or herself or may be represented by OCMA in an investigatory meeting.

## ARTICLE X GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

### Section 1. Scope of Grievances

- A. A grievance may be filed if a County 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 including, 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 rating or the equivalent.

### 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 agreement of the County and the employee or OCMA any step of the procedure may be waived.
- D. The Chief Human Resources Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, Agency/Department-wide or Countywide basis in an emergency situation. OCMA 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.

### 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 OCMA in the formal grievance/appeal procedure. If an employee chooses not to be represented by OCMA, OCMA may have a representative present during the grievance/appeal procedure and/or arbitration and, if necessary, shall have the right to present OCMA'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 OCMA.

### 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 under the grievance/appeal procedure to resolve the matter, or to meet with his or her grievance/appeal representative.
  2. An employee grievance/appeal representative, in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority under the grievance/appeal procedure to resolve the grievance/appeal, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through examination of appropriate County records or locations 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 employee 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 employee grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work if his or her supervisor determines that such interruption or absence will unduly interfere with the work of the unit in which the grievant/appellant or employee 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 employee grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the employee representative shall be permitted to do so provided that:
  - a. the employee 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 towards 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.

##### Step 1: Agency/Department Head

An employee may formally submit a grievance to the Agency/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 Agency/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,

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 Agency/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., 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.

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 OCMA 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 OCMA 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

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 is the appropriate remedy 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 Agency/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 Agency/Department rehire list pursuant to Article XI, Section 5.

### Section 5.      Rehire Lists

- A. The names of persons laid off shall be placed on an Agency/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 Agency/Departmental Rehire List for that class will be considered prior to eligibles 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 Agency/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 Agency/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 Agency/Department to another Agency/Department occurs, employees previously laid off from such function(s) who are on an Agency/Departmental Rehire List for the Agency/Department losing such function(s), shall be removed from such list and shall be placed on a Rehire List by class for the Agency/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 INJURY

### Section 1.      Treatment of Industrial Injuries

Whenever an employee sustains an injury or disability arising out of and in the course of County employment which requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code Section 4600 et. seq. or for administrative management employees in the Probation Department who hold safety status, Section 4850, whichever is applicable.

### Section 2.      Workers' Compensation

- A. Prior to qualifying for workers' compensation temporary disability benefits, an injured employee may, at his or her option, use any accrued annual leave, sick leave, compensatory time, and/or vacation, in that order.
- B. When an injury is determined to be job-related by the County or by the Workers' Compensation Appeals Board, all sick leave, compensatory time, vacation, or annual leave expended since the fourth day of disability shall be restored to the employee's account(s), except that if the injury required the employee's hospitalization or caused disability of more than fourteen (14) days, all sick leave, compensatory time, vacation, or annual leave expended since the first day of disability shall be restored to the employee's account(s).
- C. The 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 from the date of the injury shall be considered County service for merit increase eligibility and completion of the probation period.
- D. While an employee is receiving temporary disability payments, the employee may, at his or her option, use annual leave, sick leave, compensatory time, and vacation, in that order, to supplement such pay so that the employee receives not more than his/her regular salary during the employee's industrial injury leave.
- E. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of annual leave, sick leave, and/or vacation 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     SAFETYSection 1.     General Provisions

- A. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- B. The County shall make every 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 XIV     INSURANCE

As of the date of Board of Supervisors adoption of this MOU, Sworn Public Safety Managers participate in the County health plans. Effective July 1, 2020, Sworn Public Safety Managers will be transitioned to the AOCDS Medical Trust, pursuant to the terms and conditions set forth below. Sworn Public Safety Managers are employees in this bargaining unit who are sworn peace officers pursuant to Cal. Penal Code § 830.5(a) (Probation) and § 830.35(c) (Coroner).

### Section 1.     Health Plans and Premium Contributions

#### A.     Full Time Employees

1.     Except as modified by Sections 1.C, through H, below, the County will offer health plans to all full-time regular, limited-term, and probationary employees and their eligible dependents.
2.     The County will pay the following percentage of the premium for employees electing any health insurance coverage plan other than the Sharewell Choice PPO plan:
  - a.     Employee Only Coverage – eighty-five (85) percent of the employee’s premium or ninety (90) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b.     Employee and Dependent Coverage - seventy (70) percent of the total health premium for each employee and such employee’s eligible dependents or seventy-five (75) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c.     Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3.     Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4.     The health plan premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B.     Part-Time Employees



1. Except as modified in Section 1.C., D., E., and F., below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only – one hundred (100) percent of the premium;
  - b. Employee and Dependent – see subsection B.2.b., above.

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, for each EME subscriber who does not complete the Healthy Steps program, the County will pay ninety-five (95) percent of employee and dependent coverage. For each EME subscriber who does complete the Healthy Steps program, the County will pay the full cost of employee and dependent coverage for the EME subscriber. EME dependents are enrolled as dependents of the EME subscriber and are not required to participate in the Healthy Steps program.

Employees must report any subsequent changes in marital status, such as legal separation or divorce, within thirty (30) days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. OCMA will make a concerted, good faith effort to encourage its members and their dependents enrolled in the County's PPO health plan to avoid using out-of-network service providers. Plan designs for the County sponsored health plans may be altered during the term of this MOU, provided the changes are made at the same time and in the same manner for a majority of County employees.

During the term of this MOU, upon request of either party, the parties will meet to discuss potential modifications/cost containment of health insurance plans.

- E. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may cover the employee's spouse as a dependent on their health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- F. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article III, Section 11. and applicable law, the County shall continue to pay health insurance premiums as provided in sections A. and B. above, to the extent required by applicable law.
- G. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in sections A and B, above, to the extent required by applicable law.
- H. Effective January 1, 2008, active employees are pooled separately from retirees for purpose of setting premiums for participation in County offered health plans.

## Section 2. Health Plan Enrollment

- A. New eligible employees will be enrolled in the health plan of their selection effective the first day of the month following the first thirty (30) days of employment. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work, unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return, unless otherwise required by state/federal law.

- B. Terminated employees will continue to receive coverage in all health plans until the last day of the calendar month in which they terminate employment. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees to change their enrollment in a County health plan.
- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a Retiree health plan.

### Section 3. AOCDS Medical Insurance Trust Fund for Sworn Public Safety Managers

A. Effective July 1, 2020, all active Sworn Public Safety Managers will be enrolled in AOCDS medical benefit plans which shall provide medical benefits similar to those offered by the County.

New Sworn Public Safety Managers hired on or after June 1, 2020 shall be enrolled in AOCDS medical benefit plans the first day of the month following hire date.

B. Eligible Sworn Public Safety Managers failing to elect coverage within thirty (30) days of employment or eligibility (whichever is earlier) or failing to maintain medical coverage through the Trust offered medical plans will be automatically enrolled in the lowest cost Trust medical plan as employee only. No Sworn Public Safety Manager shall be eligible for County Health insurance plans except in the capacity as an eligible dependent while on unpaid leave of absence.

C. Sworn Public Safety Managers retiring on or after January 1, 2020 shall be enrolled in the AOCDS Medical Trust. The effective date of enrollment shall be January 1, 2020 or the first of the month following retirement, whichever is later. Sworn Public Safety Managers retiring before January 1, 2020 shall remain enrolled in County-offered health plans.

### Section 4. Medical Insurance Contribution for Sworn Public Safety Managers

A. Effective the first payday in June 2020 (Pay Period 12 – May 22, 2020 through June 4, 2020) the County shall contribute a composite rate of \$1,395 per month for each full-time enrolled, regular, limited-term, and probationary Sworn Public Safety Manager on paid status in this unit, except as noted in B, C, D, and E below.

For Sworn Public Safety Managers hired on or after June 1, 2020, the County contributions will be effective for the first day of the month following the date of employment or of the insurance start date, whichever is earlier.

- B. The County's medical insurance contribution for a part-time Sworn Public Safety Manager whose normal workweek consists of at least twenty (20) hours shall be one half (1/2) the rate for a full-time Sworn Public Safety Manager. No contribution shall be made for a Sworn Public Safety Manager 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 Sworn Public Safety Managers, 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 Sworn Public Safety Manager in a paid status during some portion of the pay period.
- D. 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 Public Safety and Supervising Public Safety Units MOU will also be applicable to Sworn Public Safety Managers.
- E. 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 Sworn Public Safety Manager.
- F. For Sworn Public Safety Managers who are on approved leave which meets the requirements of Family Leave pursuant to Article III, Section 11 and applicable law, the County shall continue to make medical insurance contributions as described in A., B., C., and D., above.
- G. All requirements of the AOCDS Medical Insurance Trust Fund pursuant to the terms and conditions set forth in Article XIII, Section 4 of the Peace Officer Unit and Supervising Peace Officer Unit MOU between the County and AOCDS shall apply to the AOCDS Medical Insurance Trust Fund for the Sworn Public Safety Managers.

### Section 35. Other Insurance Coverage and Physical Examination

- A. The County will provide to all full-time regular, limited-term, and probationary employees the following:

1. Short-term Disability Insurance Plan at no cost to the employee to provide, after sick leave or 192 hours of annual leave is exhausted, sixty (60) percent of salary for up to one (1) year for certified nonoccupational injury or illness. 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.
  2. Long-term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
  3. Life Insurance and Accidental Death and Dismemberment Insurance:
    - a. Basic Life insurance and accidental death and dismemberment insurance will be provided in the amount of \$100,000 for all full-time administrative management employees 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.
    - b. 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.
  4. Voluntary annual physical examinations by a County-designated physician at no cost to the employee.
- B. 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 64. 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 57. Retiree Medical Plan

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.
2. The County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered health insurance plan and/or Medicare premiums as provided below.
  - a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County health plan premiums no later than the effective dates of such change, 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.
  - b. The Grant will be adjusted as follows:
    - 1) The Grant will be reduced by seven and one-half percent (7½%) per year for each year of age the employee is less than age 60, based upon the employee’s age on the date when the employee takes active retirement from OCERS. For the purpose of deferred

retirement, the date on which the deferred retiree takes active retirement from OCERS will be deemed the retirement date.

- 2) The Grant will be increased by seven and one-half percent (7½%) per year for each year of age the employee is greater than age 60, based upon the employee's age on the date when the employee takes active retirement from OCERS. For the purposes of the Grant increase, no years of age after age 70 will be considered. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS will be deemed the retirement date.
  - 3) Sections 5.A.2.b.1 and 5.A.2.b.2 shall not apply to Safety Classifications or Disability Retirements.
  - 4) 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 both 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. This provision does not apply to a retiree or surviving dependent eligible for the Grant who has attained age 65 on or prior to September 26, 2006 and is eligible for both Medicare Part A (without paying a premium) and Medicare Part B.
- c. All current employees who retire and become eligible for a Grant shall be provided a one (1) time opportunity of thirty (30) days to enroll in a County offered health plan from the date they retire. 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 right to a Grant, if eligible and enrollment in a County offered 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. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is 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 proceeding 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-offered health plan and/or 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 actively retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS).
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 receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under 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 under OCERS shall not be eligible for a Grant.
  - c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Retiree Medical 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 Board of Retirement grants a disability retirement.
3. All eligible retirees and enrolled dependents that are age sixty-five (65) or older must be enrolled in Medicare Part B in order to be eligible for the Grant. All eligible retirees and dependents that are entitled to Medicare Part A coverage without a premium must be enrolled in Medicare Part A to be eligible to receive the Grant.
4. Deferred Retirement



- a. An employee who, upon separation from County service, is eligible for paid retirement and elects deferred retirement must defer participation in the Grant until such time as he or she becomes an active retiree.
  - b. An employee who is not eligible for paid retirement at the time he or she separates from County service shall not become eligible for participation in the Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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 (1) 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. For this purpose a layoff will not be regarded as a break in continuous employment if the employee is reemployed by the County in an eligible classification following such layoff.

#### D. Survivor Benefits

1. A surviving dependent of a retiree who was eligible to receive a Retiree Medical Grant, as stated above in A through C, and who qualifies for a monthly allowance shall be eligible for fifty (50) percent of the Grant authorized for the retiree.
2. A surviving eligible retiree who qualifies for a monthly retirement allowance who was married to a 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. Such retiree shall not be eligible for both Grants.

#### Section ~~68~~. Reopener as Result of the ACA

The County may reopen negotiations on this Article and other provisions in this MOU (e.g., Optional Benefits program in Article VI, Section 3, Flexible Spending Accounts in Article VIII), for the purpose 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 which 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).

Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.

#### Section 97. Reopener on Retiree Medical Grant

The parties may reopen negotiations on the retiree medical grant (See Section 7.A., above) during the term of this MOU.

#### Section 108. Insurance Working Group

The parties agree to participate in a Working Group to review insurance issues. The Union may have up to five (5) members as representatives on the working group. Other bargaining groups and stakeholders will be invited to participate in the working group. Among the issues to be examined by the working group are the following:

- Plan design (e.g., benefits, wellness and other incentive programs)
- Cost containment ideas
- Impact of the ACA on County insurance plans/programs
- Communications
- The County's wellness program and
- Other issues the parties agree to discuss.

ARTICLE XV     DEFINED CONTRIBUTION

Section 1.     Section 457(b) Defined Contribution Plan

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

Section 2.     Section 401(a) Defined Contribution Plan

Effective the first pay period after Board adoption of the 2011 – 2014 MOU, the County contribution to the 401(a) Defined Contribution Plan, as referred to in Appendix B of that MOU ("Wages", Item 3.) will be eliminated for the remaining managers in the 401 (a) Plan under the grandfathering agreement. Managers must leave their assets in the 401(a) Plan until either retirement, separation from the County of Orange, death or total and permanent disability.

ARTICLE XVI     RETIREMENTSection 1.     Retirement Benefit Levels for General Members

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 Who are Considered “Legacy Members” of OCERS within the Meaning of the Public Employees’ Pension Reform Act of 2013 (“PEPRA”)
1. Except as set forth in Section 1.A.3 and Section 1.B below, employees will be provided a one-fiftieth (1/50) retirement benefit calculated pursuant to Section 31676.19 of the Government Code. This retirement benefit formula is commonly known as the “2.7% at 55” benefit formula.
    - a. For employees hired on or before September 20, 1979, the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee’s highest three (3) years of compensation per Government Code Section 31462.
  2. Pension Formula Election for Employees Hired Prior to August 27, 2010
    - a. Employees hired prior to August 27, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will have 180 calendar days from that date within which to elect one time only whether to terminate for future County service their pension calculation stated in Government Code section 31676.19 (the “2.7% at 55” benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the “1.62% at 65” benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2.a above, the employee shall continue to be provided with the “2.7% at 55” benefit formula and shall make the employee retirement contributions established for that benefit formula.
    - c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (“the DC Plan”) described in Section 4 below.
    - d. Effective with the beginning of the pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be

calculated pursuant to Government Code section 31621. The employee will also make the contributions described in Section 3.C and D of this Article.

3. Pension Formula Election for Those Hired by the County between August 27, 2010 and January 1, 2013
    - a. Employees hired on or after August 27, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
    - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee will make retirement contributions in accordance with the provisions of Section 3.C and D below.
    - c. In the event an eligible employee failed to make an election during the period set forth in Subsection 3.b., above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
    - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula, is eligible to participate in the “DC Plan” described in Section 4 below.
    - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c., above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.
    - f. Effective with the pay period following the date an employee elected, or was deemed to have elected, the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Section 31621 of the Government Code. The employee will also make the contributions described in Section 3.C and D below.
- B. For Employees Hired on or After January 1, 2013 Who are Considered “New Members” Within the Meaning of PEPRA
1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable

- compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 3.C and D., below.
2. "New Members" are eligible to participate in the "DC Plan" described in Section 4 below.

## Section 2. Retirement Benefit Levels for Safety Members

- A. For Employees Hired Before January 1, 2013 and for Employees Hired on or After January 1, 2013 Who are Considered "Legacy Members" of OCERS within the Meaning of PEPRA
  1. Probation Department safety employees will be provided the "3% at 50" benefit formula as set forth in Government Code section 31664.1.
    - a. For Employees hired on or before September 20, 1979, the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code section 31462.1.
    - b. For Employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
- B. For Employees Hired on or After January 1, 2013 Who are Considered "New Members" Within the Meaning of PEPRA.
  1. The retirement formula will be the "2.7% at 57" retirement formula described in Government Code section 7522.25(d), utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement.

## Section 3 Retirement Contributions

- A. Members' normal and cost of living contribution rates will be established and adjusted subsequent to and in accordance with state law and actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- C. Employees shall pay the full member contribution for each of the benefit plans provided by the County.

D. General Members Contributions to Offset the Increased Cost of the “2.7% at 55” Benefit Formula

1. Except as provided in Section E below, ~~t~~The implementation of the 2.7% at 55 retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, i.e., it will be borne entirely by the employees.

Effective with the pay period that commenced June 24, 2005, general members in this bargaining unit began making an additional contribution to the retirement system. This contribution is in addition to the normal employee contribution calculated under Section 31621.8 of the Government Code (or Section 31621 of the Government Code, if applicable), and is in addition to the employee contribution required to help provide full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary. The additional employee contribution made under this paragraph is known as the “Reverse Pickup” and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability shall be in accordance with and for the purposes stated in Section 31678.3(d) of the Government Code. This additional contribution shall continue beyond the expiration date of this MOU for the purpose of amortizing, over a ~~30-20~~ year period, the cost of the enhanced retirement benefit.
  - b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the ~~30-20~~ year period set forth above.
2. Implementation of the foregoing changes increased employee and employer retirement contributions for general members in this bargaining unit. Except as provided in Section E below ~~i~~t is the intention of the parties that the amount of this increase will continue to be borne entirely by the general member employees, and not by the County.
  3. The County and OCMA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.

E. Reduction in Reverse Pickup

1. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in

the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

2. Effective the first day of the first full pay period after Board of Supervisors adoption, the County will assume responsibility for a fixed 1.2% reduction of the employee's paid reverse pickup.
3. Effective July 3, 2020, the County will assume responsibility for an additional 1.2% for a total fixed 2.4% reduction of the employee's paid reverse pickup.
4. Effective July 3, 2021, the County will assume responsibility for an additional 1.2% for a total fixed 3.6% reduction of the employee's paid reverse pickup.
5. Effective July 1, 2022, the County will assume responsibility for an additional .5% for total fixed ongoing 4.1% reduction of the employee's paid reverse pickup.
6. By July 1, 2022, the entire Reverse Pickup for employees in the PEPRA and 1.62% and 65 Classic benefit formulas shall be eliminated. It is the intent of the parties that the reverse pickup amount for Legacy employees will continue to be reduced by a fixed 4.1% from July 1, 2022 into the future.

#### Section 4. Defined Contribution Retirement Plan

- A. Beginning on the plan commencement date, as defined in Section 6 (A) above, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC Plan") to those employees who are covered by the 1.62% at 65 benefit formula (whether by election, deemed to have elected or are hired on after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 4.B., below.
- B. ~~During the first one-year period following the plan commencement date, t~~The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC Plan, not to exceed two (2) percent of the employee's base salary (the "match"). In accordance with Board action on March 22, 2011, this one-year period is extended until a decision is reached regarding implementation of the "1.62 at 65" retirement formula election for current employees as described in Section 1.A.4 above. If current employees become eligible for the election, a new one-year period for the current level of match will be established, which will be one year from the plan commencement date for current employees. Should the current employees be deemed ineligible for the retirement formula election, the second year match, as described herein, shall be implemented within two (2) pay periods of the decision. ~~During the second year and in subsequent years— following the plan commencement date, the County will contribute to a Section—~~



~~401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributed to the DC Plan. The County contribution to the Section 401(a) Defined Contribution Plan shall not exceed two (2) percent of the employee's base salary, unless the Board of Supervisors authorized additional County contributions permitted under Section 4. D below.~~ County contributions to the Section 401(a) Defined Contribution Plan shall vest on behalf of the participant after that participant has been continuously employed by the County for a period of five (5) years. For this purpose, one year shall be equal to 2080 paid hours of service, exclusive of overtime.

- C. Employee contributions to the DC Plan(s) and the County contributions to the Section 401(a) Defined Contribution Plan shall be subject to contribution limits imposed by the Internal Revenue Service. In no event shall the County be required to pay any portion of the matching contributions that would cause the employee to exceed applicable Internal Revenue Service contribution limits.
- D. If the County forms a study group to review potential modifications to the County's defined contribution plan, OCMA may designate one member to participate on the study group. The study group's recommendations will be presented to the Board of Supervisors for their consideration. ~~Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's contribution to the DC Plan, nor shall the maximum amount of the County's matching contribution to Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

#### Section 5. Tax-Deferred Retirement Plan

The County will administer an approved tax-deferred retirement plan which will allow employees to reduce their taxable gross income by the amount of their retirement contribution. The plan shall remain in effect subject to approval of the Internal Revenue Service.

ARTICLE XVII     NONDISCRIMINATION

The County and OCMA agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination by reasons of physical handicap, marital status, or medical condition (as defined under the Fair Employment Practices Act) or race, religion, color, sex, age, national origin, or ancestry.

OCMA shall not discriminate in membership or representation on any basis cited in this Article.

ARTICLE XVIII      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.

ARTICLE XIX     EMPLOYEE RIGHTS

The County shall not hinder or discipline an employee for exercising any rights or benefits provided in this Memorandum of Understanding.

ARTICLE XX      COMPENSATIONSection 1.      Salary

- A. The Chief Human Resources Officer has the authority to allocate classes to management ranges, and to determine the salary level of employees assigned to a new range.
- B. Notwithstanding Article I, Section 2 of this MOU, salaries will be increased for unit members as set forth below.

1. Effective the first day of the next full pay period following adoption of this MOU salaries will be increased by ~~1.75~~ 2.5% (base-building/salary range movement) for all unit members;

~~except for Probation Managers who are members of one of the County's safety retirement benefits formulas, who will see their salaries increased by 2.75% (in recognition of the recent elimination of the County-paid portion of member contributions toward retirement).~~

2. ~~Effective the first day of the pay period in January 2016~~ July 3, 2020, salaries will be increased by ~~1.0~~ 2.5% (base-building/salary range movement) for all unit members.

3. ~~Effective the first day of the pay period in January 2016~~ July 2, 2021, salaries will be increased by ~~1.0~~ 2.5% (base-building/salary range movement) for all unit members.

4. ~~Effective the first day of the pay period in January 2016~~ July 1, 2022, salaries will be increased by ~~1.0~~ 3.0% (base-building/salary range movement) for all unit members.

~~Effective the first day of the pay period in January 2017, salaries will be increased by 1.0% (base-building/salary range movement) for all unit members.~~

5. ~~Effective the first day of the pay period in July 2017, 2.75% will be placed into the funding pool for the new compensation system (see Section 2 below)~~

Section 2.      Management Performance Evaluation and Compensation

- A. Salary increases shall not be automatic. They shall be based upon performance and granted only upon the affirmative recommendation of the Agency/Department Head.

- B. Compensation Committee Development of New Compensation System

1. ~~Within 60 days of the adoption of this MOU the parties will begin~~ The parties

~~will continue~~ meeting to develop a new compensation system (to replace the Pay for Performance (P4P) Program). ~~Funding for the new compensation system is set forth in Section 2.A, above.~~

Each party may designate up to seven (7) representatives to serve on the committee. The Assistant Director of Human Resource Services and the President of OCMA will serve as co-chairs of the committee. The purpose of the committee will be to review the current compensation and evaluation systems and recommend modifications to these systems as circumstances merit.

2. Other provisions of the MOU that affect compensation and evaluation, such as Article I, Section 2, may be changed as a result of the committee's recommendations.
3. The committee will meet on an as-needed basis, and have as its goal to complete its work no later than May 31, ~~2016~~2020.

#### C. Evaluation Committee

1. The parties agree to meet following adoption of this MOU to develop a new classification system. Each party may designate up to seven (7) representatives to serve on this committee. The Assistant Director of Human Resource Services and the President of OCMA will serve as co-chairs of the committee. The purpose of the committee will be to review the current classifications in the bargaining unit and recommend modifications to those classifications, as circumstances merit. The County ~~anticipates is~~ using an outside consultant to conduct the classification study.
2. Other provisions of the MOU that involve classifications, such as Appendix A, may be changed as a result of the committee's recommendations.
3. The committee will meet on an as-needed basis. ~~The need for continued use of equity funding (see Section 3 below) will be a subject of review as part of the classification study. Once the study is completed and implemented, equity funding will cease unless the parties agree otherwise. The Pparties agree that in the interim, the current evaluation system will not be identified as P4P or P4PT and the parties will meet to create a replacement evaluation system.~~

#### ~~Section 3. — Market/Equity Adjustments~~

- ~~A. — Upon request of an Agency/Department Head, or the Association, made between July 1<sup>st</sup> and July 31<sup>st</sup> of each calendar year, the County Executive Officer, or his/her designee, may, based on consideration of such factors as external market data, internal salary relationships, position responsibilities, and sound management principles, approve additional individual salary increases which shall not exceed~~

~~twelve (12) percent; however, no such increase shall cause an employee's salary to exceed the advertised maximum rate of the applicable salary range. Within thirty (30) days of the submission of the requests, the County and the Association will meet to discuss the requests under consideration.~~

- ~~B. The aggregate total of market/equity adjustments approved during each calendar year shall not exceed six tenths of one percent (.60%) of total bargaining unit salaries as calculated on July 1<sup>st</sup> each year.~~
- ~~C. Market/Equity adjustments will not be considered for internal salary inequities that are due to performance based salary increases.~~
- ~~D. Within 45 days of the receipt of the requests and subsequent discussions, the CEO, or his/her designee, will provide a determination of whether or not such requests shall be approved.~~

~~This provision is subject to the conditions set forth in Section 2.C., above.~~

Section ~~34~~. Range Constraints

- A. No employee's salary shall exceed the maximum of the salary range, except pursuant to Y-Rate provisions of Article I.
- B. No employee's salary shall be less than the minimum rate in the range assigned to the class in which he or she is employed.

APPENDIX A

8011MA Administrative Manager I  
8012MA Administrative Manager II  
8013MA Administrative Manager III  
8014MA Administrative Manager III (SPL)

8011MP Administrative Manager I (Probation Management)  
8012MP Administrative Manager II (Probation Management)  
8013MP Administrative Manager III (Probation Management)

8011MT Administrative Manager I (Deputy Coroner Management)  
8012MT Administrative Manager II (Deputy Coroner Management)  
8013MT Administrative Manager III (Deputy Coroner Management)