

**MEMORANDUM  
OF  
UNDERSTANDING**

**BETWEEN**

**TEAMSTERS UNION LOCAL 856  
(DEPUTY PROBATION OFFICERS')**

**and the**

**COUNTY OF ALAMEDA**



**AUGUST 18, 2002 - AUGUST 22, 2009**

**MEMORANDUM OF UNDERSTANDING 2002 - 2009  
COUNTY OF ALAMEDA AND  
TEAMSTERS UNION LOCAL 856  
(DEPUTY PROBATION OFFICERS')**

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**MEMORANDUM OF UNDERSTANDING 2002-2009  
COUNTY OF ALAMEDA AND  
TEAMSTERS UNION LOCAL 856  
(DEPUTY PROBATION OFFICERS')**

THIS MEMORANDUM OF UNDERSTANDING is entered into by the Director of Human Resource Services of the County of Alameda, a political subdivision hereinafter named as "County", and the TEAMSTERS UNION LOCAL 856, hereinafter named as "Union", as a recommendation to the Board of Supervisors of the County of Alameda concerning the conditions of employment to be in effect during the period August 18, 2002 through August 22, 2009, for those employees working in Representation Unit R072 referred to and further described in Section 1 of this MEMORANDUM.

**SECTION 1. RECOGNITION**

- A. The County recognizes the Union as the exclusive bargaining representative for:
1. All full-time permanent and probationary employees in Bargaining Unit R072 in classifications more particularly enumerated in Appendix A of this Memorandum.
- B. On an as-needed basis, representatives of the County and the Union shall meet for the purpose of assigning newly-created Civil Service classifications to appropriate bargaining units. Such placement shall be by mutual consent. In case of disagreement, an arbitrator shall decide the matter and if the disagreement involves another employee organization, the arbitrator shall be agreed upon by all parties. Costs of such arbitrations shall be borne equally between the parties to the disagreement.

**SECTION 2. NO DISCRIMINATION**

- A. **DISCRIMINATION PROHIBITED.** No person in the classified civil service shall be appointed, reduced or removed, or in any way favored or discriminated against because of his/her political or religious opinions or affiliations, or because of racial or national origin, sexual orientation and, to the extent prohibited by law, no person shall be discriminated against because of age, sex, physical disability, or any other protected class as defined by the EEOC. Complaints arising pursuant to the provisions of this section shall only be processed according to the Uniform Complaint Procedure contained in Appendix "C" which is incorporated by reference to this Memorandum of Understanding.
- B. **NO DISCRIMINATION BECAUSE OF UNION ACTIVITY.** Neither County nor Union shall interfere with, intimidate, restrain, coerce, or discriminate against employees covered by this agreement because of the exercise of rights to engage or to not engage in Union activity.

**SECTION 3. UNION SECURITY**

- A. **NOTICE OF RECOGNIZED UNION.** Each County department or agency shall post within the employee work or rest area a written notice which sets forth the classifications included within each

### SECTION 3. (continued)

representation unit referred to in Section 1 hereof and which includes any classification existing in the department or agency, and the name and address of the recognized employee organization for each such unit. The department or agency shall also give a written notice to persons newly employed in representation unit classifications, which notice shall contain the name and address of the employee organization recognized for such unit; the fact that the Union is the exclusive bargaining representative for the employee's unit and classification; and a copy of the current Memorandum of Understanding to be supplied by the Union. The Union agrees that it has a duty to provide fair and non-discriminatory representation to all employees in all classes of the units for which this Section is applicable, provided the employee pays Union dues, a service fee or a charitable contribution.

#### B. AGENCY SHOP.

1. AGENCY SHOP. Except as provided otherwise in this subsection B., employees in representation units referred to in Section 1 hereof, shall, as a condition of continuing employment, become and remain members of the Union or shall pay to the Union a service fee in lieu thereof. Such service fee shall be 98% of Union dues fees (hereinafter termed "service fee") of the Union representing the employee's classification and representation unit.
2. IMPLEMENTATION. Any employee hired by the County subject to this Memorandum of Understanding shall be provided through the employee's Agency or Department with a notice advising that the County has entered into an Agency Shop agreement with the Union and that all employees subject to the Memorandum of Understanding must either join the Union, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues and initiation fees, or a service fee, or a charitable contribution equal to the service fee. Said employee shall have five working days following the initial date of employment to fully execute the authorization form of his/her choice and return said form to the Agency/Department Payroll Office. Should the Department hold an employee orientation meeting, a representative or steward of the Union shall be permitted to participate in this meeting for a maximum of ten minutes.

If the form is not completed properly and returned within five working days, the County Auditor shall commence and continue a payroll deduction of service fees from the regular biweekly pay warrants of such employee. The effective date of Union dues, service fee deductions or charitable contribution for such employees shall be the beginning of the first pay period of employment or the pay period this subsection B. becomes effective for current employees, whichever is later, except that initiation fees shall be deducted in no more than eight equal installments in successive pay periods, beginning with the first full pay period.

The employee's earnings must be sufficient after other legal and required deductions are made to cover the amount of the dues or service fees checkoff authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over Union dues and service fees.

### SECTION 3. (continued)

3. **RELIGIOUS EXEMPTION**. Any employee of the County subject to this Memorandum of Understanding who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a charitable contribution equal to the service fee in lieu of Union membership or service fee payment. Declarations of or applications for religious exemption and any supporting documentation shall be forwarded to the appropriate local Union within fifteen days of receipt by the County. The Union shall have fifteen days after receipt of a request for religious exemption to challenge any exemption granted by the County Administrator or his/her designee. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution to the challenge. Charitable contributions shall be by regular payroll deduction only. For purposes of this Section, charitable deduction means a contribution to the Women's Refuge, the Emergency Shelter program or the Emergency Food Bank Network of Alameda County.
4. **EXCLUSION OF EMPLOYEES**. The Agency Shop provisions set forth in subsections B.1., B.2., and B.3. herein, shall not apply to persons designated by the Board as management, supervisory or confidential nor to persons not in the classified civil service.
5. **FINANCIAL REPORTS**. Teamsters Local 856, shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the County Administrator once annually.

Copies of such reports shall be available to employees subject to the Agency Shop requirements of this Section at the offices of the Union.

Failure to file such a report within 100 days of the close of the Union's fiscal year shall result in the termination of agency fee deductions, without jeopardy to any employee, until said report is filed.

6. **PAYROLL DEDUCTIONS AND PAYOVER**. The County shall deduct Union dues or service fees and premiums for approved insurance programs from employee's pay in conformity with State and County regulations. The County shall promptly pay over to the designated payee all sums so deducted. The County shall also periodically provide a list of all persons making charitable deductions pursuant to the religious exemption granted herein.
7. **HOLD HARMLESS**. Union shall indemnify and hold the County and its officers and employees harmless from any and all claims, demands, suits, or any other action arising from the Agency Shop provisions herein. In no event shall the County be required to pay from its own funds Union dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.
8. **NO STRIKE**. The Union, its members and representatives agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, sick-out, or refusal to perform customary duties during the term of this Memorandum of Understanding. Failure to comply with this Section shall result in the termination of all agency fee deductions without jeopardy to any employee.

### SECTION 3. (continued)

9. **WAIVER OF ELECTION FOR NEWLY-REPRESENTED EMPLOYEES AND NEW REPRESENTATION UNITS.** The accretion of classifications and/or employees to the representation units set forth in Section 3.B.1. of this Memorandum of Understanding shall not require an election pursuant to subsection 10 herein for the application of this Agency Shop provision to such classifications and/or employees. The recognition of newly-established bargaining units and the inclusion of same within Section 3.B.1. of this Memorandum of Understanding shall also not require an election pursuant to subsection 10 herein for the application of this Agency Shop provision to such units.

### **SECTION 4. ACCESS TO EMPLOYEES; USE OF BULLETIN BOARDS; USE OF COUNTY FACILITIES; MEETINGS**

- A. **ACCESS TO EMPLOYEES.** Authorized representatives of the Union shall have the right to contact individual employees working within the representation unit represented by the Union in County facilities during business hours on matters within the scope of representation, provided prior arrangements have been made for each such contact with the Agency/Department Head or a designated representative. The Agency/Department Head or the Agency/Department Head's designated representative shall grant permission for such contact if, in his/her judgment, it will not disrupt the business of the work unit involved. When contact on the work location is precluded by confidentiality of records or of work situation, health and safety of employees or the public, or by disturbance to others, the Agency/Department Head or the Agency/Department Head's designated representative shall have the right to make other arrangements for contact location removed from the work area.
- B. **USE OF BULLETIN BOARDS.** Reasonable space shall be provided on bulletin boards as specified by Agency/Department Heads for use by employees and the Union to communicate with departmental employees. Material shall be posted upon the bulletin board space designated and not upon walls, doors, file cabinets or any other place. Posted material shall not be obscene, defamatory, or of a partisan political nature, nor shall it pertain to public issues which do not involve the County or its relations with County employees. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed by the sponsor when no longer timely.
- C. **USE OF COUNTY FACILITIES.** County facilities may be made available for use by employees and the Union. Such use shall not occur during regular working hours other than the lunch period. Application for such use shall be made to the management person under whose control the facility is placed. Employees attending meetings under this section during duty hours may do so only on duly requested and authorized leave time.
- D. **MEETINGS.** Meetings of an authorized representative of the Union and a group of employees shall not be permitted during working hours except as provided in C. above. The Agency/Department Head may, upon timely application, allow meetings of a representative of a recognized employee organization and a group of employees during the lunch period in County facilities and at convenient dates. No contacts shall be permitted during working hours with employees regarding membership, collection of monies, election of officers, or other similar internal employee organizational business. Employees attending recognized organization meetings are not on County business.
- E. **DATA TO UNION.** The County Auditor shall, twice annually upon request, supply the Union with data processing runs of the names, home and office addresses and civil service classifications of all

## SECTION 4. (continued)

employees in the represented unit. Such service shall be supplied at no more than cost to the County.

## **SECTION 5. SHOP STEWARD**

- A. **PURPOSE.** The County recognizes the need and affirms the right of the Union to designate shop stewards from the employees in Bargaining Unit R072. It is agreed that the Union in appointing such shop stewards does so for the purpose of promoting an effective relationship between the County administration and employees by helping to settle problems at the lowest level of supervision.
- B. **QUARTERLY MEETINGS.** The Probation Department agrees to meet on a quarterly basis with representatives of the Union or more frequently by mutual agreement. The purpose of the quarterly meetings is for the Probation Department administration and the Union to meet and discuss issues and matters of mutual concern in an effort to promote mutual effectiveness, efficiency and understanding.
- C. **ROLE OF SHOP STEWARD AND SUPERVISOR.** The shop steward recognizes the fact that the supervisor is the key person in the department and, as such, is responsible to higher management for the quality and quantity of the work. As the supervisor is the key person for management, the shop steward is the key person for the Union. They must promote and maintain good morale and friendly relations and must be willing to meet in good faith to settle grievances as they arise, exercising a positive approach. There must be mutual respect on both sides in these relations. The shop steward understands that the shop steward function does not relieve the representative from conforming to all rules of conduct and standards of performance established by law, regulation, County or department policy or Memorandum of Understanding.
- D. **SELECTION OF SHOP STEWARD.** The location and number of stewards shall be mutually agreed upon by the department and the Union. The Union shall reserve the right to designate the method of selection of shop stewards. The Union shall notify the Agency/Department Head in writing of the names of the shop stewards and the area they represent. The Agency/Department Head will be notified in writing by the Union of any subsequent changes regarding shop stewards and who they are replacing.
- E. **SHOP STEWARD RELEASE TIME.**
1. **SHOP STEWARDS WORKING FULL TIME.** After obtaining supervisory permission, shop stewards will be permitted to leave their normal work area during on-duty time not to exceed four hours per week in order to assist in investigation of the facts and assist in presentation of a grievance.
  2. **SHOP STEWARDS WORKING LESS THAN FULL TIME.** After obtaining supervisory permission, shop stewards employed two-fifths time or more, but less than full time, will be permitted to leave their normal work area during on-duty time not to exceed two hours per week in order to assist in investigation of facts and assist in presentation of a grievance.

The steward's workload may be adjusted to the extent the Agency/Department Head feels it is appropriate.

## SECTION 5. (continued)

To obtain permission to investigate a grievance on on-duty time, the shop steward shall advise the supervisor of the grievant of his/her investigation of the facts and the general nature of the grievance. The shop steward shall report such time to his/her supervisor as shop steward leave (payroll code UNI) for timekeeping purposes. The shop steward is permitted to discuss the problem with all employees immediately concerned and, if appropriate, to attempt to achieve settlement with the supervisory personnel involved. Agencies, wards, clients, detainees and outside interested parties will not be contacted by shop stewards as part of the grievance process. The employee may be represented by a shop steward at such time as a grievance is reduced to writing.

If, in the judgment of the supervisor, because of the necessity of maintaining adequate level of services, permission cannot be granted immediately to the shop steward in order to present or investigate a grievance during on-duty time, such permission shall be granted by the supervisor no later than the next working day from the day the shop steward was denied permission.

Stewards/employees who participate in the meet and confer process and/or participate on a labor-management committee, must report such time to their supervisor as payroll code MCL for meet and confer and payroll code LMC for participation on a labor management committee.

- F. **NUMBER AND CHANGES OF SHOP STEWARDS.** It is agreed that the Union and the department will maintain positions known as shop stewards within Bargaining Unit R072. The shop steward shall be selected from locations throughout the County by the Union. It is agreed that the County shall not attempt to transfer any shop stewards of the Union for reasons associated with his/her duties as shop steward. If a shop steward is assigned to another position by the County, the Union shall have the right to immediately replace the individual with another shop steward. Should the Union wish to change shop stewards during a grievance procedure, it may do so provided that only one steward shall be allowed time off from work at any one time to investigate or settle the grievance.
- G. **LIMITATIONS ON TIME OFF.** Shop Stewards shall not be permitted time off from their work assignments for the purpose of conducting general Union business.

## **SECTION 6. HOURS OF WORK; SCHEDULES AND SHIFTS; REST PERIODS**

- A. **HOURS OF WORK DEFINED.** Hours worked, including all hours suffered to be worked, shall include all time not under the control of the employee whether such hours are worked in the County's workplace, or in some other place where the employee is carrying out the duties of the County.
- B. **WORK DAY AND WORK WEEK**
1. The "work week base" as used herein, shall mean an amount of hours in a work week which is equivalent to the full-time hours listed for classifications as enumerated in Appendix A.
  2. The normal work day shall be eight (8) hours, the normal work week base shall be forty (40) hours.



## **SECTION 6. (continued)**

- C. **WORK SCHEDULES AND SHIFTS.** The responsible management authority shall prepare a schedule showing the days and hours each employee in his/her area is to work. Except under unforeseeable circumstances, each management authority shall make every reasonable effort to assure that no employee shall have more than one change of shift in any work week and that the employee shall be off duty no less than twelve (12) hours prior to working the new shift. An employee may work planned variations of the normal workday or workweek provided that his/her immediate supervisor and the Agency/Department Head have given written approval for the planned variation program.
- D. **BIWEEKLY WORK SCHEDULE FOR DEPUTY PROBATION OFFICERS.** Notwithstanding Section 7.B and 7.C of this Memorandum of Understanding, in those cases in which Deputy Probation Officers working in the Probation Department and the Chief Probation Officer or his/her designee agree to a fixed flexible work schedule, the Deputy will work no more than 40 hours in a designated 7-day work period. Any flexible work schedule shall begin and/or end on dates which agree with the County's biweekly pay periods. Employees will be entitled to overtime compensation only for approved time worked in excess of forty hours in a 7-day period. Deputy Probation Officers subject to flexible work schedule shall not be entitled to more than 8 hours off with pay on paid holidays and shall be required to makeup during the pay period in which the holidays falls the difference between 8 hours and the length of the work day which the employee would have been scheduled to work had the holiday been a normal work day on the adjusted schedule. The employee shall not be entitled to overtime compensation for working said holiday makeup hours. If an employee is scheduled to work less than 8 hours on a holiday, an employee shall be entitled to 8 hours of time off.

The Chief Probation Officer or his/her designee shall, in his/her discretion, determine which, if any, classifications and positions shall be eligible for the flexible work schedule and retains the right, upon appropriate notice to the Union and after meeting and conferring if requested by the Union, to make changes in the classifications and positions eligible for such flexible schedule or to eliminate the program in its entirety.

- E. **REST PERIODS.** Each employee shall be granted a rest period of fifteen minutes during each work period of more than three hours duration provided, however, that rest periods are not scheduled during the first or last hour of such period of work. No wage deduction shall be made nor time off charged against employees taking authorized rest periods, nor shall any rights or overtime accrue for rest periods not taken. There is no obligation upon the County to provide facilities for refreshments during the rest periods, or for procurement thereof.
- F. **SCHEDULED DAYS OFF.**

Employees shall be scheduled so as to provide two consecutive days off during their workweek. Exceptions to this provision may occur in order to accommodate a mutually agreed upon flexible work schedule where days off may not be scheduled consecutively, or when employees work overtime on their scheduled day off.

## **SECTION 7. OVERTIME**

- A. Overtime work is all work performed pursuant to Section 6, subsection A. in excess of the work week set forth in Section 6, subsections B. and C.

## SECTION 7. (continued)

Holidays which fall on an employees regular day off shall receive compensation at the regular straight-time hourly rate.

- B. **HOW OVERTIME IS AUTHORIZED.** Work for the County by an employee at times other than those so scheduled shall be approved in advance by the Agency/Department Head or the Agency/Department Head's representative or, in cases of unanticipated emergency, by the Agency/Department Head or the Agency/Department Head's representative after such emergency work is performed. No employee shall perform overtime work unless such overtime work has been approved by the Agency/Department Head or the Agency/Department Head's designated representative.
- C. **OVERTIME COMPENSATION.** All employees shall receive overtime compensation in cash, in compensating time off, or a combination thereof, at the option of the Agency/Department Head, as follows and consistent with Section H. herein:
1. The method of compensation for cash payment of overtime worked shall be as follows:
    - a. Employees covered by the overtime provisions of the Fair Labor Standards Act shall be paid time and one-half for overtime worked as provided above based on the hourly rate defined in 7.D. provided, however, that time and one-half the employee's Fair Labor Standards Act regular rate defined in 7.D.2. shall be paid for all actual hours worked in excess of 40 hours (excluding holidays and paid leave time) in an employee's designated work period.
  2. There shall be no overtime payment unless the employee has actually worked at least some portion of time during said workweek (e.g., an employee on paid leave only, during an entire workweek, is not entitled to any overtime compensation unless the individual physically works hours during that workweek. For example: An employee on vacation Sunday through Thursday could work Friday and/or Saturday and receive overtime. The fact that the employee physically worked Friday and/or Saturday meets the criteria of performing work within the workweek).
- D. **RATE OF OVERTIME COMPENSATION.** All employees covered by the overtime provisions of the Fair Labor Standards Act shall receive overtime compensation at a premium rate of 1-1/2 the regular straight-time hourly rate. Compensation will be made pursuant to subsection C. above.
- E. **RATES DEFINED.**
1. For purposes of this section, the hourly rate shall be defined as the regular biweekly rate divided by 80.
  2. For purposes of this Section, the Fair Labor Standards Act regular rate shall be defined as follows:

An employee's regular rate shall include in addition to his/her hourly rate as defined in e.1 any applicable salary ordinance footnote and any applicable premium payment pursuant to Section 13.A.B.C.E. and G. of this Memorandum of Understanding.
- F. **FRACTIONS OF LESS THAN ONE-HALF HOUR PERIOD.** Overtime payment shall be compensated in cash or time off in increments of one-tenth hour period.

## **SECTION 7. (continued)**

G. **WHEN OVERTIME SHALL BE PAID.** Cash compensation for overtime worked shall be paid not later than the completion of the pay period next succeeding the pay period in which such overtime was earned.

H. **WHEN COMPENSATING TIME OFF MAY BE TAKEN OR PAID.**

1. Compensating time off earned on or after April 15, 1986 may be accrued to a maximum of 80 hours, and any employee who has accumulated 80 hours of compensatory time off shall be paid in cash for all subsequent overtime worked until such time as the employee's compensating time off balance is reduced below 80 hours. Notwithstanding the foregoing, an employee may exceed the 80 hour maximum when an emergency or other unusual circumstances exist and the department/agency has obtained approval of the County Administrator's Office to grant compensating time off in excess of 80 hours.

Scheduling compensating time off shall be by mutual agreement of the employee and the Agency/Department Head provided that the agency/department may require that an employee adjust his/her work week in order to avoid overtime penalties.

An employee covered by the overtime provisions of the Fair Labor Standards Act who has accrued compensating time off in accordance with this subsection shall upon separation from County service be paid for unused compensating time off at a rate of compensation not less than the average regular rate, as defined above, received by such employee during the last three years of employment or the final regular rate received by such employee, whichever is higher.

## **SECTION 8. LEAVES OF ABSENCE**

A. **LEAVE MAY NOT EXCEED NINE MONTHS.** A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave, but such leave shall not be for longer than nine months, except as hereinafter provided.

B. **NO LEAVE TO ACCEPT OUTSIDE EMPLOYMENT.** A leave of absence without pay may not be granted to a person accepting either private or public employment outside the service of the County of Alameda, except as hereinafter provided.

C. **MILITARY LEAVE.** Every employee shall be entitled to military leaves of absence as specified in Chapter 7, Part 1, Division 2 of the California Military and Veterans Code. The employee must present to the supervisor a copy of his/her military orders which specify the dates and duration of such leave.

If such employee shall have been continuously employed by the County for at least one year prior to the date such absence begins, he/she shall be entitled to receive paid military leave as follows:

1. Paid military leave which may be granted during a fiscal year is limited to an aggregate of 30 calendar days during ordered military leave, including weekend days and travel time.
2. During the period specified in 8.C.1. above, the employee shall be entitled to receive pay only for those days or fractions of days which the employee would have been scheduled to work and would have worked but for the military leave.

## SECTION 8. (continued)

3. The rate of pay shall be the same rate the employee would have received for shifts he/she would have been scheduled to work or scheduled for paid holiday leave, had he/she not been on military leave.
4. In no event shall an employee be paid for time he/she would not have been scheduled to work during said military leave.

Time spent on military leave shall be included in determining eligibility to occupy a classification based upon length of service.

- D. **TEMPORARY APPOINTMENT DUE TO MILITARY LEAVE.** An Agency/Department Head may grant an employee a leave of absence without pay from his/her position to permit such an employee to be temporarily appointed to fill a position which is vacant as the result, and during the period, of a military leave of absence.
- E. **EDUCATIONAL LEAVE.** A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave for the purpose of education, but no one such leave of absence shall exceed a period of one year.
- F. **LEAVE WHEN LENT TO OTHER GOVERNMENTAL AGENCY OR GOVERNMENTAL INSTITUTION.** A leave of absence without pay may be granted by the Agency/Department Head to any employee who is lent to another governmental jurisdiction, to an agency engaged in a survey of government practices, or to an educational institution; but no one such leave of absence shall exceed a period of one year.
- G. **LEAVE OF ABSENCE TO ACCEPT APPOINTMENT TO THE UNCLASSIFIED SERVICE.** A leave of absence without pay may be granted to an employee to permit such person to accept employment for an indefinite period in the unclassified civil service of the County or in a position outside the County service, the salary of which is paid in whole or in part by the County. Upon termination of such employment, such person shall revert to the position from which said leave of absence was granted and, in the event such position has been filled by another person, the reduction in force procedures set forth in the Civil Service Commission rules shall apply.
- H. **LEAVES OF ABSENCE TO ACCEPT APPOINTMENT TO ANOTHER POSITION IN THE CLASSIFIED SERVICE.** An employee having tenure in a classification in the classified civil service who is appointed to another classification in the classified service of the County may be granted a leave of absence without pay from the position to which he/she has tenure until he/she obtains tenure to such other position, or his/her appointment thereto is terminated for any reason, whichever first occurs. In the event of the return of such employee to the position from which leave of absence was granted, the employee with the least seniority in such class in such department shall be laid off if all authorized positions are filled.
- I. **LEAVE FOR PARTICIPATION IN EXAMINATION PROCESS.** Upon 48 hours advance notice by the employee to his/her supervisor, an employee shall be granted paid leave while participating in an Alameda County examination which is scheduled during the employee's working hours. Sufficient paid leave shall be granted to permit the employee to travel between the work place and the testing site. Examinations for jurisdictions other than the County of Alameda are exempted from this provision.
- J. **LEAVE FOR PARTICIPATING IN SELECTION PROCESS.** Upon 24 hours advance notice by the employee to his/her supervisor, an employee who has received a certification for an Alameda

## SECTION 8. (continued)

County employment interview shall be granted paid leave while participating in the interview scheduled during the employee's working hours. Sufficient paid leave shall be granted to permit the employee to travel between the work place and the site of the interview. Interviews for jurisdictions other than the County of Alameda are exempted from this provision.

- K. **LEAVE FOR JURY DUTY OR IN ANSWER TO A SUBPOENA.** Leave of absence with pay shall be granted to a person while going to and from court and serving on jury duty or answering a subpoena as a witness. Any jury or witness fee awarded to such person shall be deposited with the County Treasurer. Any person assigned to an afternoon or evening shift shall be entitled to equal time off as a leave with pay from his/her next regularly scheduled shift for all time spent while going to and from court, serving on jury duty or answering a subpoena as a witness. Equivalent leave with pay shall be granted to any such employee who is scheduled to work a shift other than a day shift, said leave to be granted during his/her next succeeding work shift. On any day of jury service or when answering such subpoena during which an employee is excused entirely or in sufficient time to permit the employee to return to work for a minimum of one-half of the employee's regular scheduled shift, the employee shall be required to do so and the pay provided for herein shall be reduced accordingly. When stand-by jury duty is available, the employee shall apply for such option.
- L. **DISABILITY LEAVE FOR OTHER EMPLOYMENT.** Anything in this Memorandum to the contrary notwithstanding, any person who, because of sickness or injury, is incapable of performing his/her work or duties in the service of the County but who is nevertheless capable of performing other work or duties outside the service of the County may, within the discretion of the Agency/Department Head, be granted sick leave of absence without pay during such disability to accept such employment.
- M. **PERSONAL DISABILITY LEAVE.** Employees with tenure shall be entitled to leaves of absence without pay for not more than two segments aggregating to no more than 90 calendar days within any four year period of continuous employment upon presentation of acceptable proof of his/her personal disability. Before such leave, the employee must have used all accrued vacation, paid sick leave or compensating time off, unless the employee is receiving accrued vacation, paid sick leave or compensating time off as a supplement to disability insurance benefits under Section 16 of this Memorandum, in which event, the employee shall be entitled to personal disability leave. But the employee's entitlement to personal disability leave shall be reduced by the hourly equivalent of the disability insurance payment (hours of personal disability deducted per pay period equals two times the employee's weekly disability insurance entitlement divided by the employee's normal hourly rate) provided, however, that an employee who has exhausted paid leave balances and is receiving disability insurance only shall have personal disability leave deducted on a day-for-day basis. Such leave may be extended by mutual agreement of the employee and the Agency/Department Head.

For the purposes of this Section, time during which a person is temporarily not employed by the County, if followed by reemployment within four years, shall not be considered as an interruption of continuous employment; but the period of time such employee is not employed shall not be counted in computing the four years of continuous employment for the purpose of qualifying for the 2 segments aggregating to no more than 90 calendar days.

The Agency/Department Head may require acceptable proof of the employee's ability to return to work provided that the Agency/Department Head shall notify the employee in writing of such requirement in advance. If the submitted proof is deemed unacceptable, the Agency/Department Head shall immediately notify the employee in writing of existing deficiencies in the submitted proof. Employees granted leave

## **SECTION 8. (continued)**

under this paragraph shall be returned to the same classification and the Agency/Department Head shall make its best effort to return such employee to the same geographical location, shift and, where there is specialization within a classification, to the same specialization. Questions as to whether or not the Agency/Department Head has used his/her best effort herein shall not be subject to the grievance procedure.

### **N. MATERNITY LEAVE.**

A pregnant employee is entitled to a maternity leave of up to six months. The dates of maternity leave are to be mutually agreed by the employee and department unless the maternity leave qualifies as FMLA or Pregnancy Disability Leave, in which circumstance the employee must provide a medical certification from their physician documenting the necessity of such leave. FMLA requests for intermittent or reduced workweek schedules after the birth of a child must be mutually agreed by the employee and department.

Pregnant employees working in institutional settings where it is not unreasonable to assume that the nature of the work required could jeopardize the health of the employee may be reassigned by the County to less hazardous duty or, in the event such reassignment is not feasible, may be required to extend the maternity leave period through provisions of subsection M. above "Personal Disability Leave" to an amount satisfactory to the County.

Employees may elect to take accrued vacation or compensating time off or sick leave during the period of maternity leave. Once an employee's leave balances are exhausted, the County may fill the position vacated by such leave with another permanent employee. Employees returning from maternity leave shall be reinstated to the same classification from which leave was taken and the County shall make its best effort to return such employee to the same geographical location, shift and where there is specialization within a classification, to the same specialization. Agency/Department Head shall state reason(s) for decision in writing if denying the return of such employee to the same geographical location, shift and/or same specialization within a classification, and allow, if requested, for a meeting with the Agency/Department Head to discuss the decision. Questions as to whether or not the County has used its best effort herein shall not be subject to the grievance procedure.

- O. PATERNITY AND ADOPTIVE LEAVE.** A prospective father or adoptive parent is entitled to paternity or adoptive leave of up to 12 weeks in a twelve month period, the dates of which are to be mutually agreed by the employee and the Agency/Department Head. To be eligible for such leave, an employee must have worked at least 12 months for the County and at least 1,250 hours during the 12 months preceding the first day of leave. Such an employee may elect to take accrued vacation or compensating time off during the period of paternity/adoptive leave, except that in the case of an employee who is regularly scheduled to work less than the normal full-time work week for the classification, paid leave shall be granted only for those days, or fractions thereof, on which such an employee would have worked but for paternity/adoptive leave. The use of sick leave during paternity/adoptive leave shall not be permitted to fathers or adoptive parents unless they are otherwise eligible to use it as provided in Section 11.I. Reinstatement subsequent to paternity/adoptive leave of absence shall be to the same classification from which leave was taken and the Agency/Department Head shall make his/her best effort to return such employee to the same geographical location, shift and where there is specialization within a classification, to the same specialization. Questions as to whether or not the Agency/Department Head has made its best effort herein, shall not be subject to the grievance procedure.

## SECTION 8. (continued)

- P. **DEATH IN IMMEDIATE FAMILY.** Leave of absence with pay because of death in the immediate family of a regularly scheduled person in the County service may be granted by the Agency/Department Head for a period not to exceed three days. An additional two days leave may be granted by the Agency/Department Head and charged to the employee's accrued sick leave balance in the event that one-way travel in excess of 300 road miles from the employee's residence is required. Entitlement to leave of absence under this Section shall be only for all hours the employee would have been scheduled to work for those days granted, and, insofar as the first three days are concerned, shall be in addition to any other entitlement for sick leave, emergency leave, or any other leave. For purposes of this Section, "immediate family" means mother, step-mother, father, step-father, husband, wife, domestic partner (as defined in Appendix B), son, step-son, daughter, step-daughter, brother, sister, mother-in-law, father-in-law, foster parent, foster child, grandparent, grandchild or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, a brother-in-law, and sister-in-law.

Entitlement to leave of absence under this Section shall be only for all hours the employee would have been scheduled to work for those days granted, and, insofar as the first day is concerned, shall be in addition to any other entitlement for sick leave, emergency leave, or any other leave.

Paid leave under this section may be granted only for those days or fractions thereof on which the employee would have been regularly scheduled to work and would have worked but for the bereavement leave.

- Q. **UNION BUSINESS LEAVE BANK.** Employees subject to the provisions of this Memorandum of Understanding may donate vacation, compensatory time or in lieu holiday time into Union Business Leave Bank for the sole and exclusive use of the Union Stewards for attendance at meetings, seminars, conferences or conventions on behalf of the Union. The Union Stewards are expected to perform his/her duties as a representative of the Union on his/her own time. However, it is recognized that occasionally it will be necessary to attend to Union business during normal working hours. Where such activities are necessarily or reasonably to be performed during normal working hours, the Union Business Leave Bank may be utilized.

### **Eligibility:**

- A. Employee donations to the Union Business Leave Bank shall be made in full-day increments of 8 hours. Total hours donated to the Bank may not exceed 144 hours in a fiscal year.
- B. The donor employee may donate vacation, compensatory time or in lieu holiday which shall be converted to the recipient employee's hourly value on a dollar-for-dollar basis when utilized. Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted. Hours donated are not revocable.
- C. Requests by the Union for use of leave from the Union Business Leave Bank for absences from duty to attend to Union business will be made in writing to the Agency/Department Head. Requests for use from the Union Business Leave Bank will not be unreasonably denied.
- D. The County will provide the Union with a Leave Bank balance on quarterly basis.

## **SECTION 9. HOLIDAYS**

A. **HOLIDAYS DEFINED.** Paid holidays shall be:

January 1st - New Year's Day  
Third Monday in January - Dr. Martin Luther King, Jr. Day  
February 12th - Lincoln's Birthday  
Third Monday in February - Washington's Birthday  
Last Monday in May - Memorial Day  
July 4th - Independence Day  
First Monday in September - Labor Day  
November 11th - Veterans' Day  
Fourth Thursday in November - Thanksgiving Day  
Day after Thanksgiving  
December 25th - Christmas Day

All other days appointed by the President of the United States or the Governor of the State of California as a nation-wide or state-wide public holiday, day of fast, day of mourning, or day of thanksgiving, provided that observance of the day as a paid holiday is approved in writing by three or more members of the Board of Supervisors. Four floating holidays are to be scheduled by mutual agreement of the employee and his/her Agency/Department Head and taken within the calendar year. Employees hired on or after July 1 of any calendar year are not eligible to receive the floating holidays in that calendar year.

B. **NUMBER OF HOLIDAYS FOR SHIFT WORKERS.** Except as provided in subsection C. hereof, no employee assigned to shift work shall receive a greater or lesser number of holidays in any calendar year than employees regularly assigned to work during the normal workweek, regardless of how the holiday is compensated. The intent of this Section is to compensate each employee for each holiday defined in Section 9.A. whether compensation is in cash or time off.

C. **HOLIDAYS TO BE OBSERVED ON WORK DAYS.** In the event that January 1; February 12, known as "Lincoln's birthday"; July 4; November 11, known as "Veterans Day"; or December 25 shall fall on a Saturday, said holiday shall be observed on the preceding Friday. In the event that any of said holidays enumerated in this subsection shall fall on a Sunday, said holiday shall be observed on the following Monday. A day proclaimed as a nation-wide or state-wide public holiday, day of fast, day of mourning, or day of thanksgiving and approved in writing by three or more members of the Board of Supervisors, shall be granted only to those employees who are regularly scheduled to work on the day for which such holiday is proclaimed.

If an employee works on both December 25 and the designated holiday; January 1 and the designated holiday; or July 4 and the designated holiday, he/she will be compensated at the premium rate for December 25, January 1, or July 4 only.

D. **HOLIDAY COMPENSATION.** Holidays not worked shall be compensated at straight time for eight hours. In the event any employee shall work longer than the normal workweek as set forth in Section 6 of this agreement by virtue of having worked a holiday as set forth above, said employee shall be compensated as provided in Section 7.D.

E. **ELIGIBILITY FOR HOLIDAY PAY.** To be eligible for holiday pay, an employee must be on paid status the employee's scheduled workday before and the employee's scheduled workday after the holiday. This subsection does not apply to floating holidays.



**SECTION 9. (continued)**

- F. **CONFORMITY WITH STATE HOLIDAYS**. In the event the legislature shall amend Section 6700 of the Government Code to change the date of a holiday listed in subsection A. hereof is observed, employees subject to this agreement shall celebrate said holiday in conformity with the State. This subsection shall not be applied so as to increase or decrease the number of holidays set forth in subsection A. or subsection H. hereof.
- G. **EXEMPT WORK SITUATIONS**. Time spent in study courses, seminars, and meetings of professional groups is exempt from the provisions of this Section.

**SECTION 10. VACATION LEAVE**

- A. **FOR PERSONS EMPLOYED AFTER JANUARY 1, 1956**. Each person in the service of the County whose employment began after January 1, 1956, shall accrue vacation leave as follows:
  - 1. .385 working days for each full-time biweekly pay period on paid status until completion of 104 full-time biweekly pay periods (4 years) of continuous employment.
  - 2. .577 working days for each full-time biweekly pay period on paid status after completion of 104 full-time biweekly pay periods (4 years) of continuous employment and until completion of 286 full-time biweekly pay periods (11 years) of continuous employment.
  - 3. .769 working days for each full-time biweekly pay period on paid status after completion of 286 full-time biweekly pay periods (11 years) of continuous employment and until completion of 520 full-time biweekly pay periods (20 years) of continuous employment.
  - 4. .962 working days for each full-time biweekly pay period on paid status after completion of 520 full-time biweekly pay periods (20 years) of continuous employment.
- B. **LIMITATION ON UNUSED VACATION LEAVE BALANCES**. Maximum unused vacation leave balances allowable at the end of any calendar year shall be no more than two times the employee's vacation accrual rate, and shall be allowable as follows:

<b><u>Accrual Service Time</u></b>	<b><u>Vacation Accrual Rate</u></b>	<b><u>Maximum Balance</u></b>
Up to 104 biweekly pay periods (4 years)	10 Days (80 Hours)	20 Days (160 Hours)
After 104 biweekly pay periods (4 years)	15 Days (120 Hours)	30 Days (240 Hours)
After 286 biweekly pay periods (11 years)	20 Days (160 Hours)	40 Days (320 Hours)
After 520 biweekly pay periods (20 years)	25 Days (200 Hours)	50 Days (400 Hours)

## SECTION 10. (continued)

It is the responsibility of the employee and first-line supervisor to monitor vacation leave balances to make every effort to insure that employees' vacation balances do not exceed the limitations set forth above.

Effective the pay period containing January 1, 2004, and every such pay period containing January 1 thereafter, the vacation leave balance of any employee which exceeds the maximum allowable vacation balance will be adjusted downward to the maximum allowable vacation balance level (by placing the excess vacation in a departmental catastrophic sick leave pool) and the County will thereafter have no obligation with respect to the vacation leave affected by the adjustment.

- C. **CASH PAYMENT IN LIEU OF VACATION LEAVE.** An employee who leaves the County service for any reason shall be paid at the biweekly or hourly rate for each classification as set forth in Appendix A, for unused vacation accrued to the date of his/her separation, provided that such entitlement shall not exceed vacation earned during the two years of employment preceding such separation.

Employees shall have the primary responsibility to schedule and take sufficient vacation leave to reduce their accrued vacation leave balances to levels which do not exceed the amount for which they can receive cash payment hereunder upon termination. Agency/Department Heads shall make a reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination.

Any person accruing vacation at a rate of 10 working days or more per year may receive equivalent cash payment for five vacation days per fiscal year. Any person accruing vacation at a rate of 20 working days per year may receive equivalent cash payment for ten working days per fiscal year. All such compensation shall be made in 5-day segments only.

- D. **DATE WHEN VACATION CREDIT STARTS.** Vacation credit shall begin as of the date of employment. In the event the date of employment is not on the first day of the pay period, then the vacation credit for that pay period shall be prorated in accordance with the actual time worked in the pay period.
- E. **WHEN FIRST VACATION IS DUE.** The first vacation leave for any employee shall be due only after the completion of at least one hundred thirty working days of employment, except as provided in subsection L. hereof.
- F. **MAXIMUM VACATION LEAVE.** An employee shall be allowed to take one and one-half times his/her annual vacation accrual during any calendar year, provided that he/she has accumulated sufficient unused vacation leave.

An employee, with the permission of his/her Agency/Department Head, or Agency/Department Head's designee, may take vacation in excess of one and one-half times his annual vacation accrual during any calendar year, if he/she has accumulated sufficient unused vacation leave.

- G. **DEFINITIONS.** For the purpose of this Section, "working day" shall mean any day upon which an employee would normally be required to work.

## SECTION 10. (continued)

- H. **EFFECT OF LEAVE WITHOUT PAY ON VACATION CREDIT.** No vacation credit shall be earned during the period when an employee is absent on leave without pay.
- I. **EFFECT OF ABSENCE ON CONTINUOUS SERVICE.** Absence on authorized leave with or without pay, and time during which a person is laid off because his/her services are not needed, and time during which a person is temporarily not employed by the County, if followed by reemployment within three years, shall not be considered as an interruption of continuous service for the purpose of this Section; but the period of time such employee is absent on authorized leave without pay or so laid off or so temporarily not employed shall not be counted in computing such years of continuous employment for the purpose of this Section, provided that, for the purposes of qualifying for 20 working days vacation leave, where a person has been employed by the County without interruption for the past 10 years, all service of such employee shall be deemed to have been continuous.
- J. **WHEN VACATION LEAVE MAY BE TAKEN.** Paid leave may be granted only for those days or fractions thereof on which an employee would have been regularly scheduled to work and would have worked but for the vacation leave.

Scheduling of vacation leave shall be by mutual agreement of the employee and the Agency/Department Head or the Agency/Department Head's representative. An employee shall be allowed to divide vacation leave in any calendar year into two segments. An Agency/Department Head, at his/her discretion, may grant an employee additional segments of vacation. These segments are to be in addition to any segments of vacation leave used as personal leave as defined in Section 10.L.

Deputy Probation Officers shall be allowed two "cut-off" periods per calendar year for the purpose of scheduling vacations. During a "cut-off" period, no new cases may be assigned.

Seniority in the County service among employees in a classification and working unit, consistent with department operating requirements, shall be the basis on which vacation schedule conflicts are resolved. In any calendar year the first such conflict shall be resolved in favor of the most senior employee. Subsequent vacation schedule conflicts shall be resolved in favor of the most senior employee who has not, by virtue of his/her senior position, previously had such a conflict resolved in his/her favor during the calendar year. In the event of vacation schedule conflicts among employees, all of whom have, by virtue of their senior positions, had such conflicts resolved in their favor during the calendar year, the senior employee who has had the least number of such conflicts resolved in his/her favor shall prevail.

- K. **PERSONAL LEAVE.** An employee shall be allowed two days in any calendar year from his/her regular vacation allowance for personal leave. An Agency/Department Head shall not deny a request for this leave except for reasons critical to the operation of his/her department. Such personal leave shall be in segments of one hour or more.
- L. **RATE OF VACATION PAY.** Compensation during vacation shall be at the rate of compensation as set forth for each classification in Appendix A which such person would have been entitled to receive while in active service, including premium pay pursuant to Section 13.A., 13.B., and 13.H. hereof, during such vacation period.

## **SECTION 11. SICK LEAVE**

- A. **SICK LEAVE DEFINED.** As used in this Section, "sick leave" means leave of absence of an employee because of illness or injury other than an industrial illness or injury which renders the employee incapable of performing assigned work or duties for the County and routine medical or dental appointment of the employee.
- B. **EMPLOYEE DEFINED.** As used in this Section, "employee" means any person holding a regular, provisional, or temporary appointment in the County service and working full time, and otherwise subject to the provisions of this Memorandum of Understanding.
- C. **INDUSTRIAL SICK LEAVE WAGE CONTINUATION.** If an employee covered by these provisions of this Memorandum of Understanding is incapacitated by sickness or injury received in the course of his/her employment by the County, such employee shall be entitled to pay as provided herein.

1. California Labor Code Section 4850.

Starting with an injury dated January 1, 2000 or after, if Deputy Probation Officer I, Deputy Probation Officer II, Deputy Probation Officer III, covered by this Memorandum of Understanding is incapacitated by sickness or injury received in the course of employment, he/she shall be entitled to the benefits provided for him/her by the California Labor Code Section 4850 et seq. in lieu of sick leave. Employees who are entitled to pay as provided in the Section, shall not be entitled to pay pursuant to Section 11.C.3.

If an employee continues to be disabled after eligibility for 4850 benefits has expired, regular Worker" Compensation temporary disability benefits are paid. Eligible 4850

employees may supplement the temporary disability benefits with available accrued leaves, excluding sick leave, up to 100% of gross salary. Amount of leave necessary for this purpose is computed for each case by the County Auditor's Office.

2. **For Employees Not Covered By the Provisions of 11.C.1.** Such employee shall be entitled to receive industrial sick leave wage continuation commencing with the fourth calendar day of such incapacity equal to the difference between 80% of his/her normal salary and the amount of any Workers' Compensation temporary disability payments to which such employee is entitled during such incapacity. This period shall not exceed one calendar year from the date of sickness or injury resulting in such incapacity.
3. **Use of Accrued Leaves After One Year.** Following one calendar year, cumulative sick leave may be granted to supplement temporary disability payments to provide the disabled employee a total of 80% of salary (amount of sick leave necessary for this purpose is computed for each case by the County Auditor's Office).

In the event that the period of such incapacity shall exceed 14 calendar days, the employee so incapacitated shall be granted industrial sick leave with pay at the rate of 100% of his/her normal salary for the first three calendar days of such incapacity. If the period of such incapacity does not exceed 14 calendar days, the employee so incapacitated will be eligible to receive cumulative sick leave pay, or any other accrued paid leave for scheduled work days as provided in subsection 11.E. hereof, for the first three work days of such disability.

## SECTION 11. (continued)

4. **When Payments Shall be Denied.** Pursuant to the Workers' Compensation provisions of the California Labor Code, and notwithstanding the foregoing provisions of this Section, however, such payments shall not be made pursuant to this subsection to an employee:
  - (a) who does not apply for or who does not receive temporary disability benefits under the Workers' Compensation Law;
  - (b) whose injury or illness has become permanent and stationary;
  - (c) whose injury or illness, although continuing to show improvement, is unlikely to improve sufficiently to permit the employee to return to work in his/her usual and customary position and the employee has been declared a "Qualified Injured Worker" (QIW) and referred to Vocational Rehabilitation;
  - (d) who is retired on permanent disability and/or disability retirement pension;
  - (e) who unreasonably refuses to accept modified or other County employment for which he/she is not substantially disabled;
  - (f) whose injury or illness has been aggravated or delayed in healing by reason of the failure of the employee to have received medical treatment or to have followed medical advice, except where such treatment or advice has not been sought or followed by reason of the religious beliefs of the employee;
  - (g) whose injury or illness is a recurrence or re-injury of an earlier job-related injury or illness, or is contributed to by a susceptibility or predisposition to such injury or illness related to an earlier job-related injury or illness, and the employee has exhausted the one calendar year industrial sick leave wage continuation granted in connection with the initial injury or illness.
5. This benefit shall be administered in accordance with State Worker's Compensation Laws.
6. **Fringe Benefit Entitlement During Industrial Injury Leave.** Employees receiving Workers' Compensation temporary disability benefits and supplementing such payments with accrued paid leave or industrial sick leave wage continuation shall maintain and accrue all benefits to which they are entitled under this Memorandum of Understanding at 100% of their regularly scheduled biweekly hours immediately preceding an industrial illness or injury.
7. **Leave for Medical Treatment.** Employees with an approved Workers' Compensation claim who have returned to work and are required by their physician to undergo therapy, diagnostic tests or treatment due to an industrial injury/illness shall receive Industrial Leave with pay under the following conditions:
  - (a) Treatments are being authorized under Workers' Compensation;
  - (b) The therapy, diagnostic tests or treatment falls within the employee's normal working hours;
  - (c) The leave applies only to the actual treatment time and reasonable travel time. In no event shall leave under this subsection and the employee's actual work time exceed the employee's normally scheduled workday.

## SECTION 11. (continued)

- D. **CUMULATIVE SICK LEAVE PLAN.** Each employee shall accumulate sick leave with pay entitlement at the rate of one-half workday for each full biweekly pay period on paid status up to a maximum accumulation of 130 workdays of unused sick leave with pay entitlement. The Agency/Department Head shall grant to such an employee, for those causes set forth in subsection A. hereof, sick leave with pay, but not in excess of his/her accumulated unused sick leave with pay entitlement.
- E. **SICK LEAVE - DAYS OR FRACTIONS OF DAYS.** Paid leave may be granted only for those days or fractions thereof on which an employee would have been regularly scheduled to work and would have worked but for the sick leave.
- F. **CONVERSION OF SICK LEAVE TO VACATION.** When an employee's sick leave balance accrued pursuant to sub-sections 11.D. (Cumulative Sick Leave Plan) and 11.G. (Sick Leave Bonus) hereof reaches 130 days, 5 days shall be deducted from said sick leave balance and shall be converted to 1 day of vacation. Said vacation shall be added to vacation balances accumulated pursuant to Section 10. Vacation Leave, and shall thereafter be subject to the provisions of Section 10. Vacation Leave.
- G. **SICK LEAVE BONUS.** Effective September 2, 1979, in lieu of the supplemental sick leave provision formerly in effect each employee who has been continuously employed since a date prior to July 1, 1975, shall be given a one-time non-recurring bonus of 44 days of paid sick leave entitlement. Said bonus days of paid sick leave entitlement shall be added to the balance of paid sick leave entitlement which each such employee has accrued pursuant to subsection D. hereof, and such use shall thereafter be subject to the same conditions which are applicable to accumulated leave with pay entitlement. An Agency/Department Head, in his/her sole discretion, may grant to an employee who was eligible for sick leave bonus provided herein and who has exhausted paid cumulative sick leave entitlement accrued pursuant to subsection D. hereof, including bonus sick leave, discretionary major medical supplemental paid sick leave. In the case of such an employee who, as of June 25, 1979, had completed 26 pay periods and less than 130 pay periods of continuous employment, the maximum aggregate lifetime eligibility for major medical supplemental paid sick leave shall be 22 days. In the case of such an employee who, as of June 25, 1979, had completed 130 pay periods of continuous employment, the maximum aggregate lifetime eligibility for major medical supplemental paid sick leave shall be 44 days. Major medical supplemental paid sick leave may be granted only in those instances in which: 1) the employee's absence is caused by a serious injury or illness requiring prolonged absence from work, 2) the work or duties of the employee requesting such paid leave are being performed by others in the employee's work unit and another person has not been hired or assigned to the work unit to perform such duties, 3) the injury or illness was not incurred in the course of employment, and 4) the employee has not incurred a break in service subsequent to June 24, 1979. The Agency/Department Head's determination to deny major medical supplemental paid sick leave shall be final and non-grievable. The words "continuously employed" as used in Section (e) hereof mean full-time County service in which no break has occurred.
- H. **MEDICAL REPORT.** The Agency/Department Head, as a condition of granting sick leave with pay, may require medical evidence of sickness or injury in the form of a statement from an employee's physician acceptable to the Agency/Department when the employee is absent for more than three consecutive working days or when the Agency/Department Head determines within his/her discretion that there are indications of excessive use of sick leave or sick leave abuse.

## **SECTION 11. (continued)**

A diagnosis is not required as medical evidence of sickness or injury unless it is reasonable to believe that the employee's condition may endanger the health or safety of other employees and/or the public.

An employee absent during what the Agency/Department Head, in his/her discretion, determines to be a sick-out shall not be eligible for sick leave pay for such an absence unless the employee submits within five workdays from the date of such absence evidence of sickness or injury consisting of declarations of the employee and a physician signed under penalty of perjury. The Agency/Department Head, with the approval of the County Administrator, may waive the declarations requirement where there is other compelling evidence of the employee's sickness or injury.

Any dispute as to whether an Agency/Department Head has erred in determining that a concerted sick-out has occurred may be promptly appealed by the Union to the Board of Supervisors and/or the Superior Court.

### **I. FAMILY SICK LEAVE.**

1. **Emergency Leave -- Sickness in Immediate Family:** Leave of absence with pay because of sickness or injury in the immediate family of a person in the County service shall be granted by the Agency/Department Head during the time reasonably necessary to arrange for care of the sick person by others, including emergency medical and dental appointments, but not to exceed the amount of time which the person would be authorized for sick leave in subsection D. and may be granted under subsection E. above. Time taken for leave of absence under the provisions of this subsection shall be deducted from the sick leave allowable for such person. For the purpose of this subsection, "immediate family" means, mother, stepmother, father, stepfather, husband, wife, domestic partner (as defined in Appendix B), son, step son, daughter, step daughter, foster parent, foster child, mother-in-law, father-in-law, or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, a brother, sister, brother-in-law, sister-in-law, and grandparents.
2. **Routine Medical Care for Dependent Children:** An employee shall be entitled to paid sick leave accrued pursuant to Section 11D. hereof in order to accompany the employee's dependent children living in the household of the employee during routine medical or dental appointments, but not to exceed an aggregate of 32 hours within any calendar year. The determination of an Agency/Department Head that a medical or dental appointment was routine rather than emergency shall not be grievable.
3. Employees are eligible to use, in any calendar year, the amount of sick leave earned in a six-month period to attend to family members who are ill. For the purposes of this subsection, family members are defined as the parents, spouse, or child (biological, step, foster, legal ward, in loco parentis) of the employee. Leave used under section 11.I.1 Emergency Leave and/or 11.I.2. Routine Medical Care will be deducted from the entitlement provided under this subsection.

## **SECTION 12. WAGES**

- A. Effective August 18, 2002, salaries for all represented classifications shall be increased one and one-half (1.5 %) percent.

## **SECTION 12. (continued)**

- B. Effective August 17, 2003, there will no longer be two salary ranges for each of the job classes in this bargaining unit. The salary ranges which were effective on August 18, 2002 for safety retirement members shall be increased by five (5 %) percent and shall apply to all employees in this bargaining unit.
- C. Effective the first day of the second pay period of August 2004, 2005, 2006, 2007, and 2008, the salaries for all represented classes shall be increased to the median salary as determined by the Deputy Probation Officer II Salary Survey in effect as of July 1 of each of the above-stated years.

## **SECTION 13. PREMIUM CONDITIONS**

- A. **SPLIT SHIFT.** Except as otherwise provided in subsection B. below, any employee required to work a split shift shall be paid at a rate of five percent over and above his/her regular straight-time hourly rate of pay for the entire number of hours so worked. For purposes of this subsection "split shift" is defined as any eight hour daily tour of duty taking more than nine and one-half consecutive hours to complete.
- B. **NIGHT SHIFT.** Employees who are required to work at least five-eighths of their normal daily tour of duty after 4:30 p.m. and before 8:00 a.m. shall be paid at a rate of five percent over and above his/her normal straight-time hourly rate of pay for the entire number of hours so worked.
- C. **FOR STANDBY DUTY.** Employees who are required to perform standby duty shall be compensated at the rate of one-eighth pay per eight hours of standby duty.
- D. **FOR CALL BACK.** An employee called back to work in the same workday from either standby duty or non-standby duty status after working a full workday shall be compensated at one and one-half times the normal straight-time hourly rate for such work; provided, however, that the minimum compensation per instance shall be two hours at the rate set forth herein.
- E. **FOR TEMPORARY ASSIGNMENT TO A HIGHER LEVEL POSITION.** An employee specifically assigned on a temporary basis to a higher level position in which there is no appointed incumbent or in which the appointed incumbent is on paid or unpaid leave, shall be compensated at the pay rate for the higher level position provided that all of the following criteria are met:
  - 1. The full range of duties of the higher level position has been specifically assigned in writing by the Agency/Department Head.
  - 2. Assignment for out-of-class pay can only be made for the full shift of the higher level position. Under the provisions of this Section, part-time employees can only meet the "full shift" criteria by being assigned to a higher level part-time position, or by being assigned to work the full shift of a full-time position.

Compensation for temporary assignment to a higher level position shall be as follows:

- 1. The service in such position exceeds 10 days in any 12 month period, and payment shall be retroactive to the first day of such services in a 12-month period.
- 2. The rate of pay pursuant to this Section shall be calculated as though the employee has been promoted to the higher level position. Since out-of-class pay is an assignment rather than a



### SECTION 13. (continued)

Civil Service appointment to the position, the employee is not eligible for step increases which apply to the higher level position, but continues to receive step increases for the lower level position, if the employee is otherwise eligible for step increases in the lower level position.

3. An employee otherwise eligible for out-of-class pay who is absent on paid leave shall be paid at the out-of-class pay rate for such paid leave, provided that:
  - a. Another person has not been hired or assigned to work on an out-of-class pay basis to the same position to which the out-of-class pay assignment has been made for the same period, except as provided for in Salary Ordinance Section 3-14.7.
  - b. Paid leave is limited to no more than 5 days in any pay period. Paid leave in this circumstance in excess of 5 days in a pay period shall be compensated at the employee's regular, non out-of-class pay rate.

Time worked in a higher level assignment in excess of the work week affixed to the employee's Civil Service appointed position shall be compensated pursuant to the provisions of Section 7 hereof.

- F. **REPORTING PAY.** In the event that a regular full-time employee is scheduled or directed to report for work and so reports and is told by the County that his/her services are not required, he or she will be entitled to two (2) hours pay at the normal straight-time hourly rate. If such employee is sent home through no fault of his/her own before completion of a shift, such employee will be entitled to a minimum of four (4) hours of pay at the normal straight-time hourly rate or straight-time hourly pay for hours actually worked, whichever is greater.
- G. **BILINGUAL PAY.** Employees receiving bilingual pay will only be compensated by one of the following provisions:
  1. **Positions Designated Bilingual:** Upon the recommendation of the Agency/ Department Head and the approval of the Director of Human Resource Services, a person occupying a position designated as requiring fluency in a language other than English shall receive an additional \$30 per pay period compensation. Effective August 23, 1998, compensation provided by this section shall be \$35 per pay period.
  2. **Bilingual Pay for Services Requested:** An employee who has taken and passed a bilingual proficiency test coordinated by the County Human Resource Services Department and administered by a person who has been certified as bilingually proficient (including sign language for the deaf) shall be compensated an additional \$30 in any pay period in which the individual is directed by the Agency/Department Head or his/her designee to use and uses the bilingual skills in the course of the employee's assignment. The bilingual proficiency test and the County's determination as to an individual's bilingual competency shall not be subject to the grievance procedure. Effective August 23, 1998, compensation provided by this section shall be \$35 per pay period.
  3. The parties agree to implement any changes to the bilingual pay benefit when such modifications are made for 50% of the County's work force.
- H. **POST ASSIGNMENTS.** Persons working in post positions under Items No. 6110, and 6115 in Juvenile Custodial Institutions who are unable to receive a duty free one-half hour lunch period shall be paid an additional 3% compensation.

## **SECTION 14. HEALTH AND DENTAL PLANS**

### **A. HEALTH PLAN COVERAGE**

#### **1. HEALTH PLAN COVERAGE FOR FULL-TIME EMPLOYEES**

- a. For coverage from adoption of this Memorandum of Understanding through January 31, 2004, the County shall contribute towards the monthly providers charge for a comprehensive group health plan by a health maintenance organization or toward an indemnity/PPO health plan for eligible full-time employees as well as their spouses/domestic partners and eligible dependents up to but not exceeding the actual monthly charges established by the Kaiser Health Foundation. In no event shall the County contribution exceed the premium of the options selected. The County contribution toward the provider's charge shall be the full-time contribution provided that the employee is on full-time paid status. If the employee is on paid leave status on less than a full-time contribution pro-rated each pay period based on the proportion of the hours on paid status within that pay period to the normal full-time hours for the job classification.

Effective February 1, 2004, the County will pay the health plan premium of the lowest cost health care provider of those listed below.

- 1) Indemnity/PPO Options:
  - (a) PPO
  - (b) PPO Spousal
- 2) Kaiser
- 3) HMO option(s) other than Kaiser.

These benefit options shall be available as listed to the extent that the carrier continues to offer these benefits. The County shall give notice to the Union of such benefit changes. Upon receiving such notice, the Union may request to meet and confer regarding the effect of such benefit changes.

- b. Effective with the Health Plan year beginning February 1, 2003, the HMO option other than Kaiser coverage changed to include a five dollar (\$5) office visit co-pay.

Effective February 1, 2004, any health maintenance organizations' office visit will be increased to the same co-payments as the Kaiser Health Plan.

2. **HEALTH PLAN COVERAGE FOR EMPLOYEES REGULARLY SCHEDULED TO WORK LESS THAN THE NORMAL WORK WEEK.** An employee regularly scheduled to work **less than the normal work week** for the job classification shall be entitled to elect coverage under either the comprehensive group health plan by a health maintenance organization or one of the indemnity /PPO options as provided in Section 14.A.1.a. for full-time employees provided, however, that the employee is on paid status at least 50% of the normal full-time work week for the job classification. The County's contribution toward the provider's charge for such plan shall be the full-time contribution prorated each pay period based upon a proportion of the hours the employee is on paid status within that pay period to the normal full-time pay period for the job classification, provided the employee is on paid status at least 50% of the normal full-time biweekly pay period for the job classification.

## SECTION 14. (continued)

Notwithstanding the foregoing, however, such employees who normally work at least 50% of the normal full-time biweekly schedule for the job classification, who were on the County payroll for the pay period beginning April 1, 1979, and who received 100% of the County contribution during said pay period, shall continue to be eligible for 100% of said contribution until (1) a break in part-time service, (2) a break in health plan coverage, (3) a change to full-time service from part-time service even if the employee reverts to part-time service, whichever shall first occur; but in no event shall said contribution exceed the County contribution for coverage of full-time employees in comparable classes.

3. **DUPLICATIVE COVERAGE:** This applies to married County employees and employees in domestic partnerships (as defined in Appendix B) both employed by the County. The intent of this section limits County employees who are married or in a domestic partnership (as defined in Appendix B) from both covering each other within the same health plan. Married County employees and domestic partners (as defined in Appendix B), both employed by the County, shall be entitled to one choice from the following list of health plans:

- (a) Up to one full family Kaiser membership.
- (b) Up to one full family Indemnity/PPO membership.
- (c) Up to one full family HMO membership in a plan other than Kaiser.
- (d) Up to one full HMO membership with up to one full family Indemnity/PPO membership (excluding Spousal).
- (e) Up to one full family Kaiser membership or other HMO membership with up to one full family Indemnity/PPO membership.
- (f) Up to one full family Kaiser membership with up to one full family HMO membership other than Kaiser.
- (g) Up to one full Indemnity/PPO membership with up to one full family Indemnity/PPO spousal membership.

4. **EFFECT OF AUTHORIZED LEAVE WITHOUT PAY ON HEALTH PLAN COVERAGE:** Employees who were absent on authorized leave without pay, and whose health plan coverage was allowed to lapse, will be able to re-enroll as a continuing member in the same plan. Employees returning from such a leave must re-enroll for benefits within 30 calendar days of their return to work. The deductibles, maximums, and waiting periods shall be applied as though the employee had been continuously enrolled. The effective date of coverage will be based on guidelines established by the County.

Employees can elect to continue uninterrupted coverage for the duration of their authorized leave of absence without pay by electing to pay for coverage. In the event that an employee elects to pay for a lower level of coverage while on leave, said employee will have that same lower level of coverage when they return to work. Said employee can only restore his/her prior level of coverage during open enrollment.

5. **30-DAY RE-ENROLLMENT**

- a. Newly hired eligible employees have thirty days after appointment to enroll in a health maintenance organization or indemnity option plan. Employees enrolled in the Indemnity/PPO Spousal plan, may enroll in one of the County's Health plans within thirty days of loss of spousal or domestic partner's health plan coverage.
- b. Employees enrolled in a medical plan through another source may, within thirty (30) days of losing medical coverage, enroll in a medical plan offered by Alameda County.

## SECTION 14. (continued)

Employees seeking medical coverage under this provision must provide proof of lost medical coverage through a certification from the other employer or other health provider and meet the eligibility requirements as specified in Section 14.A.1 and 14.A.2.

5. **OPEN ENROLLMENT**: Eligible employees may choose from among any plan offered by the County during an Open Enrollment period in the Fall of 2003 and annually thereafter.

### B. **DENTAL PLAN OPTIONS**

1. **DENTAL PLAN COVERAGE FOR FULL-TIME EMPLOYEES**: For coverage from August 20, 2000, through the term of this Memorandum of Understanding, the County shall contribute the full cost of the provider's charge for a dental plan for full-time employees and their dependents, including domestic partners (upon submission of an affidavit as defined in Appendix B) and their dependents, provided that the employee is on paid status at least 50 percent of the normal full time pay period for the job classification. This continuation shall apply to the dental plan options listed below. These benefit options shall be available as listed to the extent that the carrier continues to offer these benefits. The County shall give notice to the Union of such benefits changes. Upon receiving such notice, the Union may request to meet and confer regarding a substitute benefit but if a substitute benefit is not possible as determined by the County the parties will meet and confer regarding the effect of such benefit changes. Eligible full-time employees may elect any one of the following dental plan options:

- (a) An indemnity dental plan.
- (b) A pre-paid, closed panel dental plan.
- (c) A supplemental spousal indemnity plan option.
- (d) Married County employees and employees in domestic partnerships (as defined in Appendix B) both employed by the County, shall be entitled to one choice from the following list of dental plan coverages:
  - (1) Up to one full family indemnity plan together with up to one supplemental spousal indemnity plan.
  - (2) Up to one full family indemnity plan together with up to one full pre-paid closed panel dental plan.
  - (3) Up to one full prepaid closed panel dental plan.
  - (4) Up to one full family indemnity plan.

2. **DENTAL PLAN COVERAGE FOR LESS THAN FULL-TIME EMPLOYEES AND SERVICES-AS-NEEDED EMPLOYEES**: For coverage from August 20, 2000 through the remaining term of this Memorandum of Understanding, the County shall contribute the full cost of the provider's charge for a dental plan for Services-as-Needed and less than full-time employees and their dependents, provided, however that the employee is on paid status at least 50% of the normal full-time work week for the job classification.

The dental plan for less than full-time employees shall provide the same benefit coverage as is in effect for full-time employees as described in B.1. above. To participate, an employee working in a classification normally subject to a 40-hour work week must be on paid status at least 40 hours in each and every biweekly pay period.

## SECTION 14. (continued)

3. **DENTAL PLAN PREMIUM PAYMENT ON FINAL PAYCHECK BEFORE AUTHORIZED LEAVE WITHOUT PAY OR EMPLOYEE SEPARATION:** Effective for the term of this Memorandum of Understanding, the County shall make a dental plan premium payment on a final paycheck before an authorized leave without pay or an employee separation, provided that an employee is on paid status at least one-half of the scheduled hours for the employee's classification in the employee's last biweekly pay period. Therefore, an employee working in a classification normally subject to an 80-hour biweekly pay period must have been in paid status at least 40 hours in the last biweekly pay period.

4. **EFFECT OF AUTHORIZED LEAVE WITHOUT PAY:** All full time, part-time and Services-as-needed employees regularly scheduled to work 50% time or more per pay period and who are granted an authorized leave of absence without pay, whose dental plan coverage has lapsed, and who return to work on paid status of at least 40 hours per pay period shall retain dental plan eligibility. Employees returning from such a leave must re-enroll for benefits within 30 calendar days of their return to work. Said Employees will be re-enrolled in the dental plan as continuing members with respect to application of deductibles, maximums, and waiting periods. Coverage will begin on the 15<sup>th</sup> day following the end of the biweekly period in which the employee worked at least 50% of the normal full time work week for the job classification.

Employees can elect to continue uninterrupted coverage for the duration of their authorized leave of absence without pay by electing to pay for coverage. In the event that an employee elects to pay for a lower level of coverage while on leave, said employee will have that same lower level of coverage when s/he returns to work. Said employee can only restore his/her prior level of coverage during the next open enrollment period.

5. **30-DAY RE-ENROLLMENT:**

a. For employees who are enrolled in the Spousal plan, an employee whose spouse's or domestic partner's (as defined in Appendix B) dental plan coverage is no longer available, may, within thirty calendar days of such loss of coverage, enroll in a County indemnity plan as a new member.

b. Employees enrolled in a dental plan through another source may, within thirty (30) days of losing dental coverage, enroll in a dental plan offered by Alameda County. Employees seeking dental coverage under this provision must provide proof of lost dental coverage through a certification from the other employer or other dental provider and meet the eligibility requirements as specified in Section 14.B.1 and 14.B.2.

6. **OPEN ENROLLMENT:** Eligible employees may choose from among the options listed in 14.B.1 during an Open Enrollment period in the Fall of 1997 and annually thereafter. Premiums of all County dental options will be paid according to dependent status (single, two-party, or family).

## **SECTION 15. ALLOWANCE FOR USE OF PRIVATE AUTOMOBILES**

A. **MILEAGE RATES PAYABLE.** Mileage allowance for authorized use of personal vehicles on County business shall be paid at the standard business rate as prescribed by the Internal Revenue Service. Mileage allowance shall be adjusted to reflect changes in this rate effective the first month following announcement of the changed rate by the Internal Revenue Service.

## **SECTION 15. (continued)**

- B. **MINIMUM ALLOWANCE**. An employee who is required by his/her Agency/Department Head to use his/her private automobile at least eight days in any month on County business shall not receive less than \$10 in that month for the use of his/her automobile.
- C. **PREMIUM ALLOWANCE**. An employee who is required by his/her Agency/Department Head to use his/her private automobile at least 10 days in any month and, in connection with such use, is also regularly required to carry in his/her private automobile, County records, manuals and supplies necessary to his/her job of such bulk and weight (20 lbs. or more) that they may not be transported by hand, shall be compensated an additional \$12 per month for any such month.
- D. **REIMBURSEMENT FOR PROPERTY DAMAGE**. In the event that an employee, required or authorized by his/her Agency/Department Head to use a private automobile on County business, while so using the automobile, should incur property damage to the employee's automobile through no negligence of the employee, and the employee is unable to recover the cost of such property damage from either his/her own insurance company or from any other driver, or other source, such costs shall be paid to such employee of the County, in a sum not exceeding \$500, provided that any claims the employee may have against his/her insurance company or any third party have been litigated or settled, and provided further, that the employee is not found guilty of a violation of the California Vehicle Code or Penal Code in connection with the accident causing such damage. Employees shall submit proof of loss, damage or theft (i.e., appropriate police report and/or estimated statement of loss) to the Agency/Department Head within 30 days of such loss, damage or theft. Property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's normal place of work shall not be compensated under this Section, but property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's County business destination shall be compensable as provided above.

## **SECTION 16. DISABILITY INSURANCE BENEFITS**

- A. **PARTICIPATION**. The County shall continue to participate under the State Disability Insurance (SDI) Program.
- B. **PAYMENT OF SDI PREMIUMS**. SDI premiums shall be shared equally by the employee and the County.
- C. **EMPLOYEE OPTIONS**. There are two options available to an employee who is otherwise eligible for disability insurance benefits which are as follows:
1. Option 1: Not applying for disability insurance benefits and using accrued paid sick leave, vacation leave, compensating time off, floating holiday pay, and/or, with consent of the Agency/Department Head, discretionary Major Medical Supplemental Paid Sick Leave, or
  2. Option 2: Applying for disability insurance benefits and integrating accrued paid leaves with SDI benefits. Such accrued paid leaves shall include sick leave, vacation leave, compensating time off, floating holiday pay, and/or, with the consent of the Agency/Department Head, discretionary Major Medical Supplemental Paid Sick Leave, unless the employee provides written notice to the Agency/Department Head to limit the integration to accrued sick leave only with SDI benefits. The choice to integrate accrued sick leave only with SDI benefits may not be waived by the employee or the County.

## **SECTION 16. (continued)**

3. **AMOUNT OF SUPPLEMENT.** The amount of the supplement provided in Section E. hereof, for any hour of any normal work day, shall not exceed the difference between 100% of the employee's normal gross salary rate, including premium conditions specified in Section 13. and applicable Salary Ordinance footnotes, and the "weekly benefit amount" multiplied by two and divided by 80.

D. **HOW A SUPPLEMENT TO SDI IS TREATED.** Hours, including fractions thereof, charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off, and/or floating holiday balances as supplements to disability insurance benefits will be regarded as hours of paid leave of absence.

Vacation and sick leave shall be accrued based upon a portion of the hours charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances to the normal pay period.

E. **HEALTH AND DENTAL PLAN COVERAGE IN CONJUNCTION WITH SDI.** For purposes of determining eligibility for the County's hospital and medical care contributions and dental coverage, employees who are receiving a supplement to disability insurance benefits paid from and charged to accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances shall be regarded as on full-time paid status for their regular work schedules with regard to the days for which such supplement is paid.

The group health care providers will permit employees, who are dropped from health and/or dental plan coverage because of exhaustion of their accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances, to re-enter the group plans upon returning to their former work schedules, if the employee is otherwise eligible pursuant to Section 14 herein.

F. **HOLIDAY PAY IN CONJUNCTION WITH SDI.** In the event that a paid holiday occurs during a period of absence for which the employee receives disability insurance benefits, holiday pay shall be prorated in proportion to the amount paid to the employee as a supplement to the disability insurance benefit from accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off, and/or floating holiday balances on the day before and the day after the holiday.

G. **PERSONAL DISABILITY LEAVE IN CONJUNCTION WITH SDI.** Refer to Section 8.m., Personal Disability Leave.

## **SECTION 17. NOTICE OF LAYOFFS**

The County shall give reasonable notice to the Union before effecting any layoffs which materially affect employees represented under this agreement. Upon receiving such notice and if requested by the Union, the Agency/Department Head or designee shall meet and confer regarding the effect of the layoff.

## **SECTION 18. TWO WEEKS' NOTICE UPON TERMINATION**

In the event of the termination of an employee subject to this Memorandum for a cause other than intoxication on the job, gross insubordination, dishonesty, or conviction of a felony which substantially

## **SECTION 18. (continued)**

relates to the employee's job, the appointing authority or his/her designated agent shall give to such employee a written notice of termination no less than 10 working days prior to the effective date of said termination. In the event, however, that such employee is not on the job on the date he/she would be entitled to such notice, it shall be mailed to him on such date. Time spent on the job during such 10-day notice period by a probationary employee shall not be counted toward completion of the probationary period. The County agrees to furnish a copy of any such notice to the Union if the employee so requests in writing, but failure to receive such notice shall not invalidate such termination.

## **SECTION 19. AFFIRMATIVE ACTION; SAFETY**

- A. **AFFIRMATIVE ACTION.** The County will continue to meet with the Union on matters pertaining to Affirmative Action.
- B. **SAFETY.** A Departmental Safety Advisory Committee will be established to review unsafe working conditions and other safety related issues in the workplace. The Committee's objective will be to promote employee safety in the workplace, and to creatively address safety issues. The Committee will review, discuss, and make recommendations to the Department Head on a variety of safety issues of mutual concern. The Agency/Department Head, or his/her designee, shall forward a written response to the Committee within 30 days of receipt of written recommendations from the Committee on safety issues.

The Committee will consist of three representatives from the Union and three representatives from the Probation Department. The Committee may be expanded upon the mutual agreement of the Union and the Probation Department, and if there is a need for additional members based on the items on the agenda. The Committee will meet every other month to consult on safety matters. Additional meetings may be convened on an as needed basis. A request for an additional meeting must be made in writing, and shall occur within fifteen (15) working days of receipt of the written request.

The Probation Department and Union will alternate as chair for the meetings and prepare minutes of each meeting for distribution to all Committee members. An agenda will be prepared seven days prior to each meeting, and all Committee members may submit items for the agenda.

## **SECTION 20. GRIEVANCE PROCEDURE**

- A. **DEFINITION.** A grievance is defined as an allegation by an employee or group of employees that the County has failed to provide a condition of employment which is established by the annual Salary Ordinance, by written agency/departmental rules, or by this Memorandum of Understanding as adopted by Ordinance, provided that the enjoyment of such right is not made subject to the discretion of the Agency/Department Head or the County; and provided, further, that the condition of employment which is the subject matter of the grievance is a matter within the scope of representation as defined in California Government Code Section 3504.
- B. **EXCLUSION OF CIVIL SERVICE MATTERS.** The grievance procedure herein established shall have no application to matters over which the Civil Service Commission has jurisdiction pursuant to the County Charter or rules adopted thereunder.



## SECTION 20. (continued)

C. **DEPARTMENTAL REVIEW AND ADJUSTMENT OF GRIEVANCES.** The following is the procedure to be followed in the resolution of grievances:

1. An employee having a grievance shall first discuss it with his/her immediate supervisor and endeavor to work out a satisfactory solution in an informal manner with such supervisor.
2. If a satisfactory solution is not accomplished by informal discussion, the employee shall have the right to consult with and be assisted by a representative of his/her own choice in this and all succeeding steps of this subsection C. and may thereafter file a grievance in writing with his/her immediate supervisor within seven working days after the date of such informal discussion. Within seven working days after the receipt of any written grievance, the immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing. If the grievance is not resolved at this level, the employee shall have seven working days from receipt of the answer within which to file an appeal to the division head. If the employee chooses a representative other than the union representative, it shall be the responsibility of the employee to pay for the costs of such choice.
3. The division head, or corresponding administrative level, shall have seven working days after receipt of the written appeal in which to review and answer the grievance in writing. Although no hearing is required at this step, the employee and his/her representative may be present at and participate in any such hearing as the division head may conduct. If the grievance is not resolved at this level, the employee shall have seven working days from receipt of the answer within which to file an appeal to the Agency/Department Head.
4. An Agency/Department Head shall have fifteen working days after receipt of the written appeal in which to review, hold hearings, and answer the grievance in writing. Unless waived by the mutual agreement of the employee or his/her representative and the Agency/Department Head, a hearing is required at this step and the employee and his/her representative shall have the right to be present at and participate in any such hearing. The time limit at this step may be extended by mutual agreement between the Agency/Department Head and the employee or his/her representative.

The Union may, in its own name, file a grievance alleging that the County has failed to provide it some organizational right which is established by a resolution or ordinance of the Board of Supervisors, by written agency/department rules, state law or by this Memorandum of Understanding as adopted by ordinance, provided that the enjoyment of such right is not made subject to the discretion of the Agency/Department Head or the County. Such Union grievances shall be filed with the Agency/Department Head and heard and determined pursuant to the provisions of the fourth step of the grievance procedure.

D. **WAIVER OF APPEAL STEPS.** If the grievance is not resolved after the first line supervisor has answered it in writing, the Union and the Agency/Department Head may by mutual agreement waive review of the grievance at the division head or equivalent level of those cases in which such level of management are without authority to resolve the grievance as requested by the employee.

E. **BINDING ARBITRATION OF GRIEVANCES.** In the event that the grievance is not resolved at Step 4 of subsection C. herein, the grievant or his/her representative may, within thirty days after receipt of the decision of the Agency/Department Head made pursuant to said subsection C. request that the grievance be heard by an arbitrator.

## SECTION 20. (continued)

- F. **INFORMAL REVIEW BY DIRECTOR.** Prior to selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Director of Human Resource Services or his/her designated representative shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Director or the Director's representative shall have ten working days in which to review and seek adjustment of the grievance.
- G. **SELECTION OF ARBITRATOR.** The arbitrator shall be selected by mutual agreement between the Director of Human Resource Services or the Director's representative and the employee or his/her representative. If the Director and the employee or their representatives are unable to agree on the selection of an arbitrator, they shall jointly request the American Arbitration Association to submit a list of five qualified arbitrators. The Director of Human Resource Services and the employee or their representatives shall then alternately strike names from the list until only one name remains and that person shall serve as arbitrator.
- H. **DUTY OF ARBITRATOR.** Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be final and binding upon the parties. The arbitrator shall have no power to amend this Memorandum of Understanding, a resolution or ordinance of the Board of Supervisors, the Alameda County Charter, State Law nor to recommend such an amendment.
- I. **PAYMENT OF COSTS.** Each party to a hearing before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator and of a reporter shall be borne one-half by the County and one-half by the grievant.
- J. **EFFECT OF FAILURE OF TIMELY ACTION.** Failure by the employee to file an appeal within the required time limit at any step shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.
- K. **LIMITATION ON STALE GRIEVANCES.** A grievance shall be void unless presented within 60 calendar days from the date upon which the County has allegedly failed to provide a condition of employment. In no event shall a grievance include a claim for money relief for more than a 60-day period.
- L. **DESIGNATION OF APPEAL LEVELS.** Each Agency/Department Head shall designate in writing the positions or levels in his/her department to which the various appeals provided in subsection C. hereof shall be made.
- M. **EXCLUSION OF NON-RECOGNIZED ORGANIZATIONS.** For the purposes of this Section, the provisions of Section I of the Memorandum shall be construed to limit the employee's right of selection of a representative to the extent that agents of any other employee organization as defined in Section 7-2.06 of the Alameda County Administrative Code, which is not a party to this Memorandum, are specifically excluded from so acting. The Union shall be notified of all grievances filed pursuant to Section 20.C.2. In those cases in which an employee elects to represent himself/herself or arranges for independent representation, the County shall make no settlement or award which shall be inconsistent with the terms and conditions of this Memorandum. In the event the Union shall determine that such inconsistent award has been made, the Union, on its own behalf, may file a grievance pursuant to subsection C.4. of this Section for the purpose of amending such award. In the event any unrepresented or independently represented employee

## SECTION 20. (continued)

shall elect to go to arbitration under subsection E. hereof, the Union may elect to be a full and equal part to such proceeding for the purpose of protecting the interests of its members in negotiated conditions of employment.

- N. **GRIEVANCE RIGHTS OF FORMER EMPLOYEES.** A person who because of dismissal, resignation, or layoff is no longer a County employee may file and pursue a grievance at the Agency/Department Head level and may also pursue such grievance through the remaining levels of the grievance procedure, including binding arbitration, provided that the grievance is timely filed as provided in subsection K. hereof, that the grievance is filed no later than 30 calendar days from date of issuance of the warrant complained of, that the issue would otherwise be grievable under this Section; and provided further, however, that under no circumstances may a former employee file or pursue any grievance unless it relates solely to whether such person's final pay warrant(s) correctly reflected the final salary, or fringe benefits taken in the form of cash owed to such person.

## **SECTION 21. STANDARDS AND TRAINING FOR CORRECTIONS**

- A. **MEET AND CONFER ANNUALLY.** The County agrees to meet and confer annually with the Union, on the subject of continuing participation in the Standards and Training for Corrections program, hereinafter referred to as STC, prior to the Probation Department making a proposal to the Board of Supervisors that participation be renewed for subsequent fiscal years during the life of the program.
- B. **REDUCED EXPECTATIONS AND WORKLOAD DEMANDS.** It is recognized that all eligible staff in the Deputy Probation Officer classifications will be required to complete the annual number of STC training hours as established by the Board of Corrections. Any increase in hours which may require over what has been the practice in the recent past would be given due account and consideration by supervisory and management staff in the course of the day-to-day departmental operations and task completion expectations.
- C. **TIME SPENT IN TRAINING COURSES.** Training hours required by STC provisions and the rules of the Board of Corrections will be directed work time and would normally occur within the scheduled workweek. Time spent in such training courses, approved by supervisory management staff for attendance by the members of the Union, which extends beyond the scheduled workweek would be regarded as overtime as would any other legitimate and directed work activity. The granting of overtime would be subject to the existing provisions of the Memorandum of Understanding and the County Administrative Code.
- D. **REIMBURSEMENT OF MILEAGE, AND PERSONAL OR TRAVEL RELATED EXPENSES, AND TRAVEL TIME ALLOWANCE.** When an employee is required by the Department to attend STC Post or Core training, the Probation Department will provide for reimbursement to the eligible employee for actual and reasonable costs incurred for overnight hotel accommodations, unless these costs have been pre-paid in advance by the Department. The employee will be reimbursed for overnight accommodation/lodging costs when the training is outside of Alameda County and the employee's county of residence.

The employee will be reimbursed for three meals a day for each 24-hour period of travel, for actual and reasonable costs (with receipts), or established per diem daily meal costs. Reimbursement for meals on partial days of travel or training will be made if the employee was traveling or at training during normal meal hours for that day. When meal costs are included as part of the

## **SECTION 21. (continued)**

accommodation costs, there will be no reimbursement to the employee. When no receipt is available or submitted, reimbursement will be at the County's/Department's established per diem rate.

Employees will be reimbursed for meal costs when they are enrolled and attend training for STC Core or Annual training that occurs outside of Alameda County. Meals will not be reimbursed to the employee for any training that occurs within Alameda County. All costs will be reimbursed in accordance with established procedures, consistent with approved Department Administrative Policies and Procedures.

Since training typically does not occur on Saturdays or Sundays, an employee attending such training may elect to commute to his or her home and back to the training site each weekend. Mileage costs and reasonable time necessary to travel between home and the training site during the commute will be paid to the extent that they exceed the employee's normal commute from home to his/her regular worksite. This option will be available each weekend only (i.e., from the training site on Friday afternoons and to the training site on Monday mornings) during the period of training. An employee who chooses to return home at the end of each training day, in lieu of accepting lodging accommodations during the training period, may claim mileage and related costs. The employee will be reimbursed for those mileage costs to the extent that they exceed his/her normal commute from home to his/her regular worksite. The employee who chooses to return to his/her home on a daily basis during the core training period, will not be allowed to claim commute time.

- E. **POTENTIAL FOR DISCIPLINARY ACTION.** A requirement for participation in the STC program is completion of a minimum number of training hours for all new and current employees according to the schedule prescribed by the State Board of Corrections. Each employee will be required to complete, within the prescribed time period, training in the amount specified by that Board. Except for reasons beyond an employee's control, if the employee fails to complete the required hours of training within the specified time period, the employee will be subject to appropriate disciplinary action.

## **SECTION 22. EFFECT OF LEGALLY MANDATED CHANGES**

In the event that state, federal or decisional law shall mandate the granting to employees of benefits or other terms and conditions of employment which duplicate, supplement, or otherwise impinge upon benefits or other terms and conditions of employment set forth herein, the provisions of this Memorandum of Understanding so duplicated, or impinged upon shall be void and of no further effect as of the date the mandated benefit or term and conditions of employment becomes effective, but the parties hereto shall meet and confer with regard to such benefit or other term and condition of employment, as soon as feasible, in order to assure that the state, federal or decisional mandate does not result in an overall increase or loss of benefits to employees in the area so affected.

## **SECTION 23. ACCESS TO PERSONNEL FILES**

- A. The administrative personnel file of Probation Department employees shall be maintained in the Personnel Office of the Probation Department.
- B. **ACCESS.** An employee shall be permitted to review his/her administrative/departmental personnel file at least once annually during regular working hours except that persons occupying post positions shall not be permitted to leave their work assignment for such purpose.

## **SECTION 23. (continued)**

The employee may review all material placed in his/her file except such material that was obtained as third party reference material and any records of an employee relating to an investigation of possible criminal offenses. The employee shall be provided an opportunity to respond in writing to any information contained in the administrative/departmental personnel file. Such response shall become a permanent part of the employee's permanent personnel record.

- C. **AUTHORIZATION.** When accompanied by the employee or upon written authorization by the employee, a representative of the Union shall be permitted to examine and/or obtain copies of materials in such employee's personnel file. Such reviews shall be made in the departmental Personnel Office and are subject to the presence of a member of the Personnel staff.

## **SECTION 24. DEPENDENT CARE SALARY CONTRIBUTION**

Subject to the applicable provisions of the Internal Revenue Service, employees may contribute up to \$5,000 each calendar year from their salaries for approved dependent care. (Eligible employees may only salary contribute for such expenses; there is no County contribution for dependent care.)

Reimbursements are made on a monthly basis subject to submission of itemized statements, adequate accumulation of the salary contribution, proof of payment, and applicable County administrative procedures.

## **SECTION 25. CATASTROPHIC SICK LEAVE PROGRAM**

Effective the second pay period after this Memorandum of Understanding is approved by the Board of Supervisors, an employee may be eligible to receive donations of paid leave to be included in the employee's sick leave balance if s/he has suffered a catastrophic illness or injury which prevents the employee from being able to work. Catastrophic illness or injury is defined as a critical medical condition considered to be terminal, a long-term major physical impairment or disability.

### **Eligibility:**

- A. The tenured recipient employee, recipient employee's family, or other person designated in writing by the recipient employee must submit a request to the Personnel/Labor Relations Department.
- B. The recipient employee is not eligible so long as s/he has paid leaves available, however, the request may be initiated prior to the anticipated date leave balances will be exhausted.
- C. A medical verification including diagnosis and prognosis must be provided by the recipient employee.
- D. A recipient employee is eligible to receive 180 working days of donated time per employment.
- E. Donations shall be made in full-day increments of 8 hours, and are irrevocable. Employees may donate unlimited amounts of time.
- F. The donor employee may donate vacation, compensatory time or in lieu holiday time which shall be converted to recipient employee's sick leave balance and all sick leave provisions will apply. Time

## **SECTION 25. (continued)**

donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.

- G. The donor's hourly value will be converted to the recipient's hourly value and then added to the recipient's sick leave balance on a dollar-for-dollar basis.
- H. The recipient employee's entitlement to personal disability leave will be reduced by the number of hours added to the recipient's sick leave balance.
- I. The determination of the employee's eligibility for Catastrophic Sick Leave donation shall be at the County's sole discretion and shall be final and non-grievable.

## **SECTION 26. LIFE INSURANCE**

Except for any employee who is regularly scheduled to work less than half the normal work week for the job classification, basic group life insurance coverage of \$15,000.00 will be provided to each employee who meets the enrollment requirements. The County shall continue to pay necessary premiums for two pay periods after the employee goes on approved leave without pay. This coverage reduces by 33% at age 65, at age 70, at age 75, at age 80, at age 85, at age 90 and at age 95. This reduction will apply to the amount in force just prior to each reduction interval. The reduced amounts will be rounded in accordance with the existing schedule.

## **SECTION 27. VISION REIMBURSEMENT PLAN**

Employees shall be eligible for vision care reimbursement subject to the following criteria: The employee is eligible for reimbursement after six months of continuous employment working at least 50% time or more per pay period. The employee shall be reimbursed for the cost of either lens and frames or contact lenses specifically prescribed for the employee only, up to a maximum reimbursement of \$175.00 in the twenty-four month period ending August 31, 1999, and each subsequent twenty-four month period. Effective August 31, 2001, the reimbursement for the cost of either lens and frames or contacts shall be increased to \$200.00. Reimbursement will be made subject to applicable Auditor's Office procedures and requirements.

## **SECTION 28. LONG-TERM DISABILITY INSURANCE POLICY**

A long-term disability insurance policy is available for the employee only. **Coverage can be purchased either through the use of vacation sellback (up to five days) or through payroll deduction.** (See Section 7-4 of the Salary Ordinance for information on vacation sellback.) This policy is subject to premium costs, eligibility requirements, age limitations, coverage exclusions, and all other provisions set forth in the applicable insurer contracts.

## **SECTION 29. EDUCATIONAL STIPENDS**

Upon the approval of the Agency/Department Head of any plan submitted by an employee to engage in job-related educational courses which shall maintain or upgrade the employee's skills on the job, or

## **SECTION 29. (continued)**

prepare the employee for promotional opportunities, the County shall pay 100% of the first \$50 of an approved educational expense per employee and 75% of the expenses above \$50 to a maximum County payment of \$400 per employee per fiscal year.

The maximum County liability under this section shall not exceed \$8,800 in any fiscal year. Employees shall receive such stipends on a first come first served basis each fiscal year.

## **SECTION 30. AGENCY/DEPARTMENT HEAD**

Agency/Department Head as used herein shall mean the Agency Head, the Department Head, or the designee of the Agency Head or Department Head.

## **SECTION 31. SAVINGS CLAUSE**

If any provision of this Memorandum of Understanding shall be held invalid by operation of law or by any court of competent jurisdiction, or if compliance with or enforcement of any provision shall be restrained by any tribunal, the remainder of this Memorandum shall not be affected thereby, and the parties shall enter into negotiation for the sole purpose of arriving at a mutually satisfactory replacement for such provision.

## **SECTION 32. ENACTMENT**

It is agreed that the foregoing shall be jointly submitted to the Alameda County Board of Supervisors by the Director of Human Resource Services and the Union for the Board's consideration and approval. Upon approval, the Board shall adopt an Ordinance which shall incorporate this Memorandum either in full or by reference. Upon such adoption, the provisions of this Memorandum of Understanding shall supersede and control over conflicting or inconsistent County Ordinances and Resolutions.

**SECTION 33. SCOPE OF AGREEMENT**

Except as otherwise specifically provided herein, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto regarding the provisions contained in this MOU. Neither party shall, during the term of this Memorandum of Understanding demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of the Memorandum of Understanding by mutual agreement.

Signed and entered into this \_\_\_ day of \_\_\_\_\_ 19\_\_.

**FOR ALAMEDA COUNTY**

**FOR THE UNION**

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\_\_\_\_\_  
Naomi O. Burns, Director  
Human Resource Services

\_\_\_\_\_  
Approved As To Form:  
Richard E. Winnie, County Counsel

By:



## **APPENDIX A**

## APPENDIX B

### DOMESTIC PARTNER DEFINED

A "domestic partnership" shall exist between two persons, one of whom is an employee of the County, covered by this Memorandum of Understanding, regardless of their gender and each of them shall be the "domestic partner" of the other if they both complete, sign and cause to be filed with the County an "Affidavit of Domestic Partnership" attesting to the following:

- A. the two parties reside together and share the common necessities of life;
- B. the two parties are: not married to anyone; eighteen years or older; not related by blood closer than would bar marriage in the State of California; and mentally competent to consent to contract;
- C. the two parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
- D. the two parties agree to notify the County if there is a change of circumstances attested to the affidavit;
- E. the two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

Termination. A member of a domestic partnership may end said relationship by filing a statement with the County. In the statement, the person filing must affirm, under penalty of perjury, that: 1) the partnership is terminated, and 2) a copy of the termination statement has been mailed to the other partner.

New Statements of Domestic Partnership. No person who has filed an affidavit of domestic partnership may file another such affidavit until six months after a statement of termination of the previous partnership has been filed with the County.

## APPENDIX C

### Chapter 3.48

#### EMPLOYMENT DISCRIMINATION COMPLAINT PROCEDURES

##### Sections:

3.48.010	<b>Purpose.</b>
3.48.020	<b>Scope.</b>
3.48.030	<b>Application to civil service matters and grievance procedures set forth in memorandums of understanding.</b>
3.48.040	<b>Objectives.</b>
3.48.050	<b>Definitions.</b>
3.48.060	<b>Filing of FEPC and EEOC complaints not prohibited.</b>
3.48.070	<b>Informal and formal procedures.</b>
3.48.080	<b>Costs of hearing.</b>
3.48.090	<b>Representation.</b>
3.48.100	<b>Freedom from reprisal.</b>

##### **3.48.010 Purpose.**

The purpose of this procedure is to provide a uniform and effective system for resolving certain allegations and complaints of employment discrimination. (Prior admin. code 2-18.01)

##### **3.48.020 Scope.**

This procedure pertains to allegations made by aggrieved persons of discrimination in regard to recruitment, appointment, training, promotion, retention, discipline or other aspects of employment because of race, religion, color, sex, handicap, sexual orientation, age, national origin, political affiliation or any other factor which applicable state or federal law or regulation prohibits as the basis for discrimination in employment. Complaints which do not allege discrimination based upon one or more of the foregoing factors will not be handled under this procedure.

Where applicable, this procedure supersedes the grievance procedure set forth in Chapter 3.44 of this code. This procedure does not confer upon nontenured employees the right to a good cause hearing upon the imposition of disciplinary action. (Prior admin. code 2-18.02)

##### **3.48.030 Application to civil service matters and grievance procedures set forth in memorandums of understanding.**

This procedure shall not apply to complaints relating to matters within the jurisdiction of the civil service commission under the Charter until and unless the commission elects to make this procedure applicable to such complaints. In such event, the findings and decision of the hearing officer or arbitrator shall be made to the commission for final determination. This procedure shall apply to complaints of discrimination pursuant to grievance procedures set forth in memorandums of understanding only in the event that such memorandums specifically provide for its application to such complaints. In the event that the use of this procedure is not adopted by the commission or specified by the applicable memorandum of understanding, an aggrieved person who elects to pursue an appeal through procedures provided by the commission or the memorandum of understanding may not pursue the same allegations of discrimination under this procedure. (Prior admin. code 2-18.03)

##### **3.48.040 Objectives.**

The objectives of this procedure are: to provide an efficient means of resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements; to decrease significantly formal complaints which are expensive, time consuming and detrimental to good employee relations; and to sensitize managers and supervisors to the needs of individual employees or groups and to improve their capability of handling problems before they become complaints (Prior admin. code 2-18.04)

### **3.48.050 Definitions**

“Affirmative action coordinator” means the agency/department affirmative action coordinator or other person in close reporting relationship to top management who is assigned the responsibility of managing the procedure for handling discrimination complaints.

“Complainant” means an aggrieved person who has filed a formal complaint.

“Discrimination in regard to age” means disparate treatment of persons who are at least forty (40) years of age but less than seventy (70) years of age, as prohibited by the U.S. Age Discrimination in Employment Act of 1967, or of persons who are at least forty (40) years of age, as prohibited by the California Fair Employment Practice Act.

“Discrimination in regard to handicap” means disparate treatment of persons having a physical or mental handicap not related to employment needs or the person’s ability to perform the duties of the job.

“Equal employment opportunity counselor” means an employee trained in equal employment opportunity procedures and counseling techniques to provide informal counseling on matters pertaining to discrimination.

Factors Which Applicable State or Federal Law or Regulation Prohibits as the Basis for Discrimination in Employment. These factors are those personal or social characteristics which are unrelated to either the needs of the position or to employment in general. Such factors as poor personal hygiene, unwillingness or inability to take direction, to work in harmony with supervision, peers, or the public, or to work without excessive absenteeism are examples of factors which normally are related to the needs of the position and to employment.

“Formal complaint” means written complaint which states clearly the basis for an allegation of discrimination and the relief requested. (Prior admin. code 2-18.05)

### **3.48.060 Filing of FEPC and EEOC complaints not prohibited.**

This procedure is not intended to and does not interfere with the rights of an aggrieved person to file a complaint with the Fair Employment Practice Commission, the Equal Employment Opportunity Commission, the courts, or, except as specifically provided herein, any other available source or redress. (Prior admin. code 2-18.07)

### **3.48.070 Informal and formal procedures.**

A. An aggrieved person may contact the designated equal employment opportunity counselor no later than thirty (30) days from the alleged discrimination, except that when the action complained of is a specific personnel action, of which the employee has notice, such as a promotion, demotion, rejection for appointment, or disciplinary action, the contact with the designated equal employment opportunity counselor may be made no later than ten days from the alleged discrimination. The equal employment opportunity counselor shall consult with the aggrieved person and, after making necessary inquiries, shall counsel him on the issues of the case, and seek informal resolution of the problem. The equal employment opportunity counselor shall keep a record of counseling activities and shall advise the aggrieved person of the formal complaint process and of his or her right to file complaints thereunder, under civil service rules, under an applicable memorandum of understanding, or pursuant to state and federal statutes. The equal employment opportunity counselor shall complete the informal pre-complaint counseling within fifteen (15) working days of being contacted by the aggrieved person.

B. Resolving Formal Complaints.

1. Departmental Review. If informal resolution of the problem through conciliation and negotiation cannot be effected, an aggrieved person may file a formal complaint with the departmental

affirmative action coordinator or other designated official. Such a complaint must be filed on a form provided for this purpose and within five working days after the attempted resolution of the problem by the equal employment opportunity counselor or within twenty-five (25) working days after the date of the alleged discriminatory action, whichever shall first occur. The affirmative action coordinator will decide whether the complaint falls within the jurisdiction of the procedure and accept or reject it. Upon acceptance of the complaint, the affirmative action coordinator shall obtain the notes on the case from the equal employment opportunity counselor; may conduct a prompt, impartial investigation if he deems it necessary; shall explore the possibility of resolving the problem through negotiation or conciliation; shall present findings and recommendations on resolving the complaint to the agency/department head; and within forty-five (45) working days from the date the formal complaint was filed, shall present his written decision, as approved by the agency/department head, to the complainant, with a copy of the complaint and decision to be forwarded to the director of personnel.

2. Appeal from Decision of Department Head. The decision of the department head shall be final unless appealed by the complainant to the director of personnel within ten working days of the date of mailing or personal delivery of the decision to the aggrieved person.

3. Review County Affirmative Action Officer. The director of personnel shall forward a copy of the decision and appeal to the county affirmative action officer who shall have ten working days from the date of filing of the appeal in which to determine whether to conduct his or her own investigation of the problem. In the latter event, the county affirmative action officer shall have twenty (20) additional working days in which to complete his or her investigation, counseling or settlement efforts.

4. Setting of Hearing. If the county affirmative action officer decides not to conduct his own investigation or if his or her efforts to settle the problem are unsuccessful, the director of personnel shall set the appeal for hearing before a State Hearing Officer or, by mutual agreement of the complainant and the agency/department head, before an agreed-upon arbitrator.

5. Exclusion of Frivolous or Vague Appeals and Appeal Therefrom. In the event that the director of personnel shall determine that the complaint is frivolous, vague, or that the facts alleged in the complaint, even if true, would not substantiate a claim of discrimination, or that the appeal claims discrimination based upon a factor for which state or federal law or regulation does not prohibit discrimination, he or she shall not schedule the appeal for hearing. The aggrieved person may, within ten working days of the mailing to him or her of notice that the complaint has been rejected by the director of personnel, request that the director's action be reviewed by an impartial practicing attorney selected by the civil service commission. If the aggrieved person makes such an appeal, the director of personnel shall forward to the impartial attorney a copy of the complaint, the written decision of the agency/department head, and of his or her determination which is the subject of the request for review. The impartial attorney, after reviewing the foregoing documents and without a hearing, shall determine whether the action of the director of personnel in refusing to schedule the appeal for hearing was correct. The determination of the impartial attorney in this regard shall be final, but a determination by the impartial attorney that the appeal should be scheduled for hearing shall not preclude the hearing officer or arbitrator from determination, upon the evidence adduced at the hearing, that the factor upon which the disparate treatment was based was related to the needs of the position or to employment in general.

6. Hearing of Appeal. The hearing officer or arbitrator shall fully hear the complaint and make written findings of fact as part of its decision. The decision of the hearing officer or arbitrator, on matters of employment discrimination within the scope of this procedure, shall be binding on the department/agency head. The director of personnel shall notify the Merit Systems Services of the California State Personnel Board regarding the disposition of all formal complaints received and of all heard by a hearing officer or arbitrator. (Prior admin. code 2-18.07)

### **3.48.080 Costs of hearing.**

The cost of the hearing officer or the arbitrator, as well as of any reporter required by the hearing officer or arbitrator, shall be paid by the county. In the event, however, that the aggrieved person is represented in his or her appeal by a recognized employee organization or is furnished counsel by said organization, the costs of the hearing officer or the arbitrator as well as of the reporter shall be shared equally by the county and the organization. (Prior admin. code 2-18.08)

**3.48.090 Representation.**

The aggrieved person/complainant has a right to be accompanied, represented and advised by a person of his or her own choosing at all stages of the process, but no recognized employee organization shall be obligated to furnish such representation or advice except upon such basis as the aggrieved person/complainant and the recognized employee organization shall mutually agree. (Prior admin. code 2-18.09)

**3.48.100 Freedom from reprisal.**

An aggrieved person/complainant, his or her representative, and witness shall be free from restraint, interference, coercion, discrimination or reprisal at all stages in presenting and processing a complaint, including the informal counseling state. (Prior admin. code 2-18.10)

## APPENDIX D

**MEMORANDUM OF UNDERSTANDING 2002 - 2009  
COUNTY OF ALAMEDA AND  
TEAMSTERS UNION LOCAL 856  
(DEPUTY PROBATION OFFICERS')**

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## **SIDELETTERS OF AGREEMENT**

Sideletters of Agreement and Letters of Understanding are provisions negotiated by the Union and the County that are separate from, and supplemental to, the Memorandum of Understanding.

These provisions are not grievable unless so specified in their language, but they are legally enforceable through the courts.

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**Side Letters of Agreement**

**Please contact Employee Relations Department  
(510) 208-4873**