

**Memorandum of Understanding
Attorney Bargaining Unit (T)
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MEMORANDUM OF UNDERSTANDING

ATTORNEY BARGAINING UNIT

PREAMBLE:

This Memorandum of Understanding, hereinafter referred to as "Memorandum", is made by and between the County of San Joaquin and the San Joaquin County Attorneys Association, hereinafter referred to as "SJCAA" or "Association", representing employees who are members of the Attorney Bargaining Unit. This Memorandum of Understanding constitutes the result of meeting and conferring in good faith pursuant to the California Government Code and the San Joaquin County Employer-Employee Relations Policy.

DURATION:

This Memorandum shall be in effect from the date of adoption by the Board of Supervisors through June 30, 2011.

1. MANAGEMENT RIGHTS

1.1 Management Rights

SJCAA and the County of San Joaquin recognize that it is the exclusive right of the County except as may be provided otherwise by Civil Service Rules, this Memorandum of Understanding, or the Employer-Employee Relations Policy to make all decisions of a managerial or administrative character, including but not limited to:

- (a) Hire, promote, transfer, assign, classify positions, retain employees, and to suspend, demote, discharge or take disciplinary action against employees.
- (b) Lay off or demote employees from duties because of lack of funds, in the interest of economy, or other legitimate reasons.
- (c) Determine the policies, standards, procedures, methods, means and personnel by which County operations are to be conducted.
- (d) Take whatever actions may be necessary to carry out the mission of the County in situations of emergency, subject to meeting and conferring after the emergency to the extent required by section 1.5(b).

- (e) Nothing in this Memorandum shall be construed to interfere with the County's right to manage its operations in the most economical and efficient manner consistent with the best interests of all the citizens of San Joaquin County.

1.2. Labor - Management Committees

The County and SJCAA shall establish committees comprised of labor and management representatives to deal with specific areas of concern as specified by separate letter.

1.3. Employees' Rights - Employer-Employee Relations

SJCAA and the County of San Joaquin recognize that each employee shall have the following rights which he/she may exercise in accordance with this Memorandum, Employer-Employee Relations Policy, applicable law, ordinances and rules and regulations:

- (a) The right to form, join, and participate in the activities of any labor organization of his/her own choosing for the purpose of representation on all matters within the scope of representation.

- (b) The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of the County, other employees or employee organizations, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity.

- (c) The right to refuse to join or participate in the activities of any employee organization.

- (d) The right to represent himself/herself individually in his/her employee relations with the County.

The Association or any employee or group of employees who has a complaint regarding the exercise of rights under this provision may file charges in writing with the Board of Supervisors and serve the charged party in accordance with Section 13 of the Employer-Employee Relations Policy.

1.4. Discrimination in Employment Prohibited

No employee, or applicant for employment, shall be discriminated against in any aspect of employment because of, age, ancestry, color, creed, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex, or sexual orientation as outlined in Civil Service Rule 20.

Any employee who believes he or she has been harassed or discriminated against because of any of the above reasons, may bring the matter to the attention of the supervisor or may consult with his or her Departmental Equal Employment Opportunity Coordinator. The initial contact should be

made as soon as possible, but no later than 60 days after the alleged act of discrimination or harassment occurred.

The Equal Employment Opportunity Coordinator shall process the complaint in accordance with Civil Service Rule 20, Section 3. Informal Complaint Process.

San Joaquin County shall comply with the provisions of the Americans With Disabilities Act (ADA). Individuals requesting reasonable accommodation under the ADA shall make a request in writing to their supervisor or manager, supported by medical documentation provided by an approved medical physician. The request shall identify the specific accommodation required and the anticipated duration needed for the accommodation.. The manager or supervisor shall meet with the employee to confirm any documentation or verification received, in compliance with the ADA. The manager or supervisor shall respond to the written request in writing within 10 days of receipt of supplemental materials. Any such documentation, which discloses employee medical information, shall be provided directly to the Human Resources' Disability Management Unit. The County ADA Coordinator in Human Resources shall be consulted if any dispute arises in regard to an ADA accommodation.

1.5. SJCAA Rights

SJCAA shall have the following rights:

(a) REPRESENTATION: Upon request, to meet and confer in good faith with appropriate levels of County management regarding matters within the scope of representation.

(b) ADVANCE NOTICE: Except in cases of emergency, SJCAA shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation, proposal or other action directly relating to matters within the scope of representation proposed to be adopted by the County and shall be given the opportunity to meet and confer in good faith with management prior to its adoption. Written notice will customarily be provided by furnishing SJCAA with advance copies of the agenda of the Board of Supervisors and Civil Service Commission meetings.

In cases of emergency when County management determines that an ordinance, resolution, rule or regulation must be adopted immediately without prior notice or negotiations with the Association, County management shall provide such notice and opportunity to negotiate at the earliest practicable time following the adoption of such ordinance, resolution, rule or regulation, proposal, or other action.

(c) REPRESENTATIVES - MEETING ATTENDANCE: SJCAA may have a reasonable number of employees who serve as official representatives released from work without loss of compensation when meeting and conferring with management representatives where matters within the scope of representation are being considered. SJCAA shall submit a request for such release and shall include therewith a listing of such employees including their titles and departments to the management representative and departments concerned in advance of the meeting. The use of County time for this purpose shall not be excessive, nor shall it unreasonably interfere with the

performance of County services as determined by the County. The reasonableness of the number of such employees shall be the subject of negotiation.

(d) REPRESENTATIVES ACCESS TO EMPLOYEES:

(1) Authorized representatives of SJCAA shall be allowed reasonable access to employees of the unit at their work locations during the working hours of the employees concerned for the purpose of discussing matters within the scope of representation, including but not limited to the processing of grievances and complaints and distributing materials and information provided that the work of the employee and the service to the public are not unduly impaired. The authorized representative shall give advance notice to the department head when contacting departmental employees during their duty period.

(2) Reasonable solicitation for membership or other internal Association business or campaigning shall be conducted only during the non-duty hours of all employees concerned, so long as normal work functions of County are not interfered with.

(e) SHOP STEWARDS: Shop Stewards employed and recognized by San Joaquin County may assist employees in resolving complaints and grievances at the lowest possible administrative level of review. Shop stewards will be authorized up to three hours release time per case at the 1st and 2nd levels of the grievance and complaint process. Stewards may also be present during “right to representation” discussions. The right to representation is established by individual managers or supervisors. Once it is determined by the manager or supervisor that a right to representation exists, shop stewards may then represent employees using no more than three hours per case.

A request for release time for the purposes outlined above shall be made prior to taking the release time. Such a request shall not be unreasonably denied.

NUMBER OF STEWARDS: The County authorizes a reasonable number of shop stewards for all SJCAA represented units. The Association shall provide a current list of all designated Stewards to the Labor Relations Division at the beginning of each calendar year and whenever there is a change in the list of Stewards. The list shall show the employee name, classification, department and work location and normal area to be covered. No steward shall be recognized as such by the County without written authorization from SJCAA

(f) SJCAA - COUNTY FACILITIES USE: County facilities shall be available to SJCAA as follows:

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

(2) Bulletin Boards: SJCAA has the right to the reasonable use of existing bulletin board space in each building or department at a location agreed upon by the Association and the department, under the following conditions:

(a) Material shall be posted on space as designated.

(b) Posted material shall bear the name of the Association.

(c) Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State or County laws.

(d) Material shall be neatly displayed and shall be removed when no longer timely.

(g) EMPLOYEE PAYROLL DEDUCTIONS: SJCAA shall have the exclusive right to payroll deduction for its members in this unit including regular dues and employee benefit program costs. Regular dues and employee benefit program costs may be deducted from the employee's individual paycheck. Except as otherwise provided in this Memorandum, payroll deductions shall be made only upon the revocable written authorization of the individual employee.

A continuation of SJCAA payroll deductions, without resigning a payroll deduction card, shall be allowed after an employee returns from a leave of absence.

(h) FAIR SHARE FEE: SJCAA agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in the units for which this Agreement is applicable regardless of whether they are members of SJCAA. Subject to the remaining provisions of this section, all covered employees employed on or after the effective date of this Agreement and continuing until the termination of this Agreement, shall as a condition of employment either:

(1) Become a member of SJCAA and remain a member for the duration of this MOU, provided that such members may elect to resign from the Association between 120 and 90 days prior to expiration of the MOU; or

(2) Pay to SJCAA a fair share fee in an amount which does not exceed the amount of its standard initiation fee, periodic dues, and general assessments.

Prior to collection of agency fees and on an annual basis thereafter, the Association shall notify all bargaining unit members of the Association's expenses, with adequate breakdown of expenses into reimbursable and non-reimbursable areas. If objections are received, the Association shall provide those procedures set forth in the case of *Chicago Teachers Association v. Hudson*.

(i) ASSOCIATION RELEASE TIME: SJCAA representatives shall be allocated a total of twenty (20) hours for Association business for this bargaining unit for each 365-day period or part thereof under this Memorandum. The Association shall pay to the County the cost of such

representatives' County salary for this period in cash or method to be agreed upon by the Labor Relations Division and SJCAA.

BONA FIDE RELIGIOUS EXCEPTION

Any employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. Such employee shall be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to such dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, chosen by such employee from the following list:

1. St. Mary's Interfaith Dining Room
2. The Women's Center
3. Salvation Army
4. Hospice of San Joaquin

Proof of such payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

SEPARATION FROM UNIT

The provisions of this Agreement shall not apply during periods that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term "separation" includes transfer out of the unit, layoff, and leave of absence with a duration of more than thirty (30) days.

COMPLIANCE

An employee in or hired into a job classification represented by SJCAA shall be provided with an Employee Authorization for Payroll Deduction form by SJCAA. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this fair share fee provision and the SJCAA dues, fair share fee, initiation fee or charitable contribution required are not received, SJCAA may, in writing, direct that the County withhold the fair share fee and the initiation fee from the employee's salary, in which case the employee's bi-weekly salary shall be reduced by an amount equal to the fair share fee and the County shall pay an equal amount to SJCAA.

FORFEITURE OF DEDUCTIONS

If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by this Agreement, no such deduction shall be made for that period.

HOLD HARMLESS

The authorization for payroll deductions described in this agreement shall specifically require the employee to agree to hold the County harmless from all claims, demands, suits or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

SJCAA shall defend, indemnify and save the County harmless against any and all claims, demands, suits, orders, judgments or other forms of liability that shall arise out of or by reason of, action taken or not taken by the County under this Agreement. This includes not only the County's reasonable attorney fees and costs but the reasonable cost of management preparation time as well. The County shall notify SJCAA of such costs on a case-by-case basis.

RESCINDING FAIR SHARE FEE

This section may be rescinded by a majority vote of the employees in a bargaining unit in accordance with the provisions Government Code Section 3502.5(b). The following is the Fair Share Fee Rescission Procedure agreed to by represented units and SJCAA:

1. **TIME FRAMES:** A request for a vote to rescind a fair share fee agreement may be filed no sooner than 90 days and no later than 60 days before the expiration of the applicable Memorandum of Understanding containing the fair share fee agreement.
2. **VALID REQUESTS:** A request for a rescission vote must be accompanied by proof of approval of the request by at least 30% of the employees of the representation unit covered by the fair share fee agreement. Proof of approval shall require:
 - a. Valid signatures of individuals who were on payroll and members of the representation unit as of the first pay day date to occur no sooner than 90 days and no later than 60 days before the expiration of the fair share fee agreement with the unit in question. Printed names must accompany the signatures so that signatures may be verified.
 - b. A statement that the intent of the signer is to secure approval for a vote to rescind the fair share fee agreement for the signer's representation unit. Each petition must be for a single representation unit.
 - c. A date beside each signature attesting that the signature has been executed within thirty calendar days prior to the date of submission of the request.

The County Administrator or designee shall verify that the request meets the above criteria.

3. **RESCISSION ELECTION:** If a valid request for rescission has been verified, the County Administrator or designee shall arrange for a secret ballot:

- a. Such election shall be conducted by the State Conciliation Services pursuant to its rules.
- b. The election shall occur no sooner than 15 days and no later than 45 days following the submission of a valid request by members of a representation unit to rescind fair share fee provisions for their unit.
- c. The issue shall be presented to unit members in the form of a question on which to vote yes or no: “Shall the fair share fee provisions of the Memorandum of Understanding for the Attorney Unit be rescinded?”
- d. If “yes” is marked by a majority of unit members, the fair share fee provisions shall be rescinded. A majority is defined as 50% plus one of all the eligible members of the unit.
- e. The Board of Supervisors shall certify the results of the election.

4. **ELIGIBILITY TO VOTE:** Members of the unit who meet the criteria of 2a above shall be eligible to vote in the rescission election.

5. **ELECTION CHALLENGES:** Unfair election practices or challenges made to the conduct of an election which are not resolved by the State conciliation service during the course of the election shall be filed with the Board of Supervisors. Such challenges or unfair election practice charges shall be heard in accordance with the hearings provisions of Section 8-3(b) of the employer-Employee Relations Policy.

6. **ELECTION COSTS:** Any costs resulting from a rescission election shall be borne by SJCAA in accordance with the hold harmless clause of the fair share fee agreement.

FINANCIAL REPORT

Annually, SJCAA shall provide the County with copies of the financial report required pursuant to the Labor Management Disclosure Act of 1959. Such report shall be available to covered employees. Failure to provide such a report within sixty (60) days after December 31 of each calendar year, shall result in the termination of all fair share fee deductions without jeopardy to any employee, until said report is filed.

2. **INSURANCE**

2.2. Effective Date of Coverage

The effective date of coverage for new employee members in the health, dental, and vision insurance plans provided employees shall be the first day of the first bi-weekly pay period next following the date of appointment to employment as a regular employee or as a contract or part-time

employee, who, by such contract or part-time provisions, is eligible for the stated insurance coverage.

2.3. Health Insurance Options

The County shall provide an option for health insurance coverage for eligible employees and dependents in one of three plans. The three plans shall be: (1) a Kaiser Plan; (2) a Select Plan; and (3) a Premier Plan. Health plans offered to employees may be either self funded by the County or fully insured. If any plan is self-funded, a plan document shall be adopted by the Board of Supervisors.

All health and health-related plan or benefit years shall coincide with the fiscal year.

2.3.1. Premiums

The County will pay 100% of the employee-only premium for employees electing the Kaiser or Select Plans. For employees electing dependent coverage on the Kaiser or Select Plans the county shall contribute 80% of the premium and the employee shall pay 20% of the premium.

For employees electing the Premier Plan, the County shall contribute at the same level as the Select Plan County contribution for employee only coverage or dependent coverage. Employees will pay the difference between the County contribution and the full rate of the Premier Plan at each coverage level.

2.3.2.2 Coverage for Part-Time Employees (Non-Healthcare Professionals)

Effective the pay period nearest January 1, 2001 eligible part-time employees who have worked an average of 50 hours/bi-weekly in the previous year (assessed on a semi-annual basis) and have a minimum of 3120 total hours of unbroken service shall receive healthcare benefits (for employee only) in a County specified plan with Health Care Services as the sole provider except as designated in the plan. The County will pay 80% of the premium and the employee pays the remaining 20%. Participation is mandatory for all eligible employees.

2.3.3. Coverage For Surviving Dependents

Consistent with the Federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), any County employee who is covered by County-offered health insurance and who dies while employed, whether in paid or unpaid status, their surviving dependents shall be allowed to retain their dependents' coverage, provided that the dependents elect COBRA coverage and pay their applicable premiums by the due date.

2.3.4. Health Plan Information

SJCAA shall have input in the selection of the provider and the insurance broker for the County health, dental, and life insurance programs.

2.4. Dental Insurance

The County shall provide an option for dental insurance coverage for eligible employees and dependents in either the Delta Dental or the Pacific Union Dental dental plans. The County shall pay the employee-only premium and any increases thereof for the term of this memorandum. Dependent dental coverage is available in either of the two plans at the employee's expense.

Orthodontia coverage for dependents up to the age of 18 will be available through the Delta Dental plan for employees electing dependent coverage. The plan will pay 50% of actual costs. The maximum amount of orthodontia coverage for dependents is \$1200, lifetime, per dependent.

The maximum annual Delta Dental benefit per person shall be \$3,000.

2.5. Vision Insurance

The County shall provide vision insurance coverage for eligible employees under the Vision Service Plan for the life of this agreement. The County shall pay the employee-only premium and any increases thereof for the term of this memorandum. Dependent vision coverage, is available at the employee's expense.

2.6. Life Insurance

The County shall provide each eligible employee, with life insurance coverage as follows:

- (a) At least one but less than three continuous years of service -
- \$1,000.
- (b) Three but less than five continuous years of service -- \$3,000.
- (c) Five but less than ten continuous years of service -- \$5,000.
- (d) Ten continuous years of service or more -- \$10,000.

For the purposes of this subsection only, a year is defined as twelve (12) consecutive calendar months of employment.

2.6.1. Additional Life Insurance

Eligible employees in this unit shall have the option to purchase additional term life insurance in increments of \$25,000 to a maximum of \$200,000 at the County's rate.

2.7. State Disability Insurance

Employees in this bargaining unit shall purchase at the employee's expense State Disability Insurance. State Disability Insurance provides weekly benefits in the event an employee is unable to work due to an illness or injury that is not job-related. Employees receiving benefits from State Disability Insurance and supplementing those benefits with accrued leave time to receive a full

paycheck shall receive the County's contribution to their health, dental, vision, life insurance and retirement, if applicable.

2.8. Flexible Benefits

Employees in this bargaining unit shall have the option to participate in a flexible benefit program (as allowed and prescribed by Section 125 of the Internal Revenue Code and applicable IRC sections and regulations) which permits the pretaxing of insurance premiums, reimbursement of eligible dependent care costs, and unreimbursed healthcare expenses with pre-tax dollars.

2.9 Continuation of Insurance Benefits While on Leave

When an employee is on an authorized leave of absence without pay, the employee shall be allowed at the employee's own expense to remain under the health, dental, vision, and life insurance coverage for up to twenty-six (26) bi-weekly pay periods provided that such employee shall pay the applicable premiums at least two (2) weeks prior to the premium due date. Specific arrangements for such coverage shall be made with the Human Resources Division.

Regular employees and eligible part-time employees on payroll for less than forty-one (41) hours in any given pay period will be responsible for paying the premiums necessary to continue their health, dental, vision and life insurance coverage.

3. LEAVES FROM EMPLOYMENT

3.1. Vacation

Except as specified below, regular employees in this unit shall accrue and accumulate vacation according to the following schedule:

(a) hours on payroll equal to # of full continuous bi-weekly payroll periods	(b) hourly accrual rate	(c) maximum bi-weekly accrual hours	(d) approx. hours annual accrual	(e) maximum accumul. hours
less than 78	.0385	3.080	80	160
78, but less than 260	.0577	4.616	120	240

260, but less than 520	.0770	6.160	160	320
520 or more	.0885	7.080	184	368

Whenever an employee's accumulation of vacation reaches its maximum as provided above, any further vacation accrual shall be credited to such employee's sick leave accumulation until such time as the employee's vacation accumulation falls below the maximum allowed.

Leave without pay or disciplinary suspension shall delay the advancement to the next higher accrual rate until the employee has been on payroll the number of pay periods specified above.

Each department head shall make every possible effort to ensure that vacation time off requested by an employee is utilized at times which are mutually agreeable to the employee and the department; however, the department head has final authority to grant or deny such request.

3.2. Vacation Time For Illness

An employee may choose to use accrued vacation or compensatory time, if any, if the employee is absent beyond the limits of accumulated sick leave for reasons of illness, injury or quarantine, or death in the immediate family as described in Section 3.3.2.

3.3.1. Accrual

The granting of sick leave with pay is a privilege and not a right. Regular employees shall accrue .0462 hours of sick leave for each straight-time hour on payroll not to exceed eighty (80) straight-time hours per pay period (annual accrual rate, approximately 96 hours).

3.3.2. Sick Leave Usage

Subject to the conditions specified in this memorandum sick leave may be authorized for any of the following reasons:

- (a) Illness, injury or quarantine of the employee;
- (b) Medical, dental or optical care of the employee;
- (c) Illness, injury or quarantine of a member of the employee's immediate family which requires the employee to tend, care for, or otherwise provide for the care of such person, up to a maximum of sixty-four (64) hours in a fiscal year.

For the purpose of this Section, "immediate family" means the spouse, domestic partner, child, parent, sibling, grandparent or grandchild of the employee; or the child, parent, sibling, grandparent or grandchild of the employee's spouse or domestic partner.

- (d) Illness, injury or quarantine during an authorized vacation or on a floating holiday as evidenced by satisfactory proof attesting to the nature and length of disability. Sick leave for non-emergency medical, dental, or optical care during an authorized vacation or on a floating holiday period is not permitted.
- (e) An amount sufficient which, when added to an employee's disability indemnity under Worker's Compensation, will result in a payment to the employee not more than the employee's regular salary.
- (f) An amount sufficient which, when added to an employee's disability indemnity under State Disability Insurance (if applicable), will result in a payment to the employee not more than the employee's regular salary.
- (g) Employees who have sick leave accruals can use up to forty (40) hours of such sick leave time to care for a new or adopted child.

3.3.3. Sick Leave Exclusion

No employee shall be entitled to sick leave because of any of the following:

- (a) Disability arising from any illness or injury purposely self-inflicted or caused by the employee's misconduct;
- (b) Illness, injury, quarantine or disability while on leave without pay;
- (c) An employee who is scheduled to work on a regular holiday who is absent on that holiday due to illness, injury, or quarantine shall not be permitted to use sick leave but shall be deemed to have used the regular holiday.

3.3.4. Sick Leave Verification

Employees absent from work because of illness, injury, or quarantine, or for non-emergency medical, dental or optical care shall be paid only upon furnishing the appointing authority or designee with satisfactory proof as may be required by the appointing authority or designee that the absence was due to such cause. The requirement, need and form for such verification shall be made known to the employee in advance of any absence, but no later than the time the employee calls in sick, provided that the employee has complied with departmental call-in procedures. An appointing authority shall not require "after the fact" verification.

If verification is requested, the requirement and the need for medical verification shall be confirmed to the employee in writing within two weeks after the employee's return, explaining the justification for the request.

3.3.5. Sick Leave Abuse

Upon information and after investigation and the determination of the Director of Human Resources that an employee has abused the privilege of sick leave benefits, the Director may suspend the employee's privilege of sick leave accrual and/or usage with pay for such period as the Director determines necessary to deter the employee from again abusing the privilege.

3.3.6 Sick Leave Conversion

Upon separation from employment and concurrent assumption of a retired status in the San Joaquin County Employees Retirement Association, each employee on payroll on or prior to August 27, 2001 shall convert fifteen percent (15%) of accumulated sick leave to cash at the employee's hourly rate at separation if the employee has more than one hundred and sixty (160) hours of sick leave accumulated as of the date of separation and provided that such conversion shall not be in an amount so as to reduce the accumulation below one hundred and sixty (160) hours.

Each such employee on payroll on or prior to August 27, 2001 shall choose to use his/her remaining sick leave balance to implement Section 8.4 of this Memorandum provided that the employee has more than one hundred sixty (160) hours of sick leave accumulated as of the date of separation.

Any amount received from conversion of sick leave under this Section shall not be considered compensation for purposes of contributions to, or benefits from the San Joaquin County Employees Retirement Association.

3.3.7. Sick Leave Incentive Program

In an effort to reduce the level of sick leave usage, the County agrees to the following sick leave incentive plan.

- (1) **CONDITIONS OF PARTICIPATION:** An employee must be on payroll with the County during the entire calendar year to be eligible for incentive rewards.
- (2) **QUALIFICATIONS AND REWARDS:** Eight (8) hours of administrative leave will be granted to an employee who, at the end of each calendar year, has a sick leave balance which equals at least one half of the cumulative amount that the employee was eligible to accrue based on years of service.
- (3) **DEFINITIONS:** Administrative Leave - For the purposes of this program, administrative leave will be granted at the beginning of the calendar year which follows the year in which it was earned. Furthermore, this leave will have no cash conversion value and can only be taken during the year in which it was granted. Should the leave not be used during that calendar year, it will be lost. Scheduling of this time off shall be consistent with the procedures for scheduling compensatory or vacation time. In all instances, it shall require mutual agreement of the employee and the department head or designee.

3.4.1. Regular Holidays

The following days are established as regular holidays for regular employees:

- (a) January 1 - New Year's Day.
- (b) The third Monday in January - Martin Luther King, Jr.'s Birthday.
- (c) The third Monday in February - Washington's Birthday.
- (d) The last Monday in May - Memorial Day.
- (e) July 4 - Independence Day.
- (f) The first Monday in September - Labor Day.
- (g) November 11 - Veteran's Day.
- (h) Any November day designated as Thanksgiving Day.
- (i) The Friday following the day designated as Thanksgiving Day.
- (j) December 25 - Christmas Day.
- (k) All other holidays as may be proclaimed by the Governor of the State of California or the President of the United States and adopted by the Board of Supervisors.

3.4.1.1. Regular Holiday - Weekend Observance

When a regular holiday falls on a Saturday, the preceding Friday shall be observed as a floating holiday.

With the exception of employees who work in a seven (7) day per week work site, when a regular holiday falls on a Sunday, the following Monday shall be observed as the holiday. For employees who work in a seven (7) day per week work site, when a regular holiday falls on a Sunday, the regular holiday shall be observed on Sunday.

Notwithstanding provisions of the County ordinance relating to regular holidays that fall on a Saturday, employees who are scheduled to work and who work on a regular holiday that falls on a Saturday shall be compensated in accordance with Section 3.4.2.1 of this Memorandum of Understanding. When an employee is scheduled to work and works on a regular holiday that falls on a Saturday, the preceding Friday is not observed as a floating holiday.

3.4.2.1. Regular Holiday Compensation – Regular Employees

Any regular employee whose regularly scheduled day off falls on a regular holiday shall be entitled to accrue eight (8) hours of regular holiday time. The appointing officer or designee has the discretion to approve an employee's request to be paid cash for eight hours at straight time in lieu of accrual, provided that if the employee's regular holiday accrual is at the 60-hour limit, the employee shall be paid in cash or, at the department's option, the employee shall be allowed to roll the time into another leave balance of the employee's choice.

In addition to regular salary, any regular employee who is required to work on a regular holiday shall have the option of being compensated for the hours worked on such holiday by: (1) cash payment at the rate of one and one-half (1-1/2) times such employee's hourly base salary, or (2) the accumulation of regular holiday time at the rate of one and one-half (1-1/2) hours for each hour worked.

3.4.2.2. Regular Holiday Compensation – 24-Hour Work Sites

Employees who work in a seven (7) day per week work site and work only on the Monday following the actual holiday shall receive eight (8) hours of straight time pay plus eight (8) hours accrual of floating holiday time. Employees who work both days shall receive premium compensation for Sunday only.

3.4.2.4. Maximum Regular Holiday Accumulation

The maximum regular holiday time accrual shall be sixty (60) hours. Such regular holiday time off shall be scheduled at a time mutually agreeable to the employee and the department head.

Employees in this unit who have reached a maximum accrual of holiday time, and are denied requested time off due to staffing and operational constraints, may exceed maximum accrual balances for one pay period or roll additional accrued time off into other leave balances.

3.4.2.5. Holiday Pay – Part-Time Employees (Non-Healthcare Professionals)

Effective July 1, 2000 eligible part-time employees with 1300 hours of service in the prior calendar year and 2080 hours of unbroken service (not taken off payroll) who are scheduled to work and work on a regular holiday will receive holiday premium pay.

3.4.3. Floating Holidays

The following days are established as floating holidays for regular employees:

- (a) Each regular employee's birthday.
- (b) February 12 - Lincoln's Birthday.

- (c) September 9 - Admission Day.
- (d) The second Monday in October - Columbus Day.
- (e) The Friday preceding any regular holiday which falls on a Saturday.

3.4.3.1. Floating Holiday Observance

Regular employees scheduled to work on the floating holiday may individually, with the approval of the department head, take such holiday on the date of the holiday, on the day preceding the holiday in the case of holidays which fall on a Saturday, or the day following the holiday in the case of holidays which fall on a Sunday, or may accumulate up to forty eight (48) hours of floating holiday time to be used at a deferred date. Such floating holiday time off shall be scheduled at a time mutually agreeable to the employee and the department head. County offices and departments shall remain open for business on any day deemed to be a floating holiday and employees who elect to accumulate floating holiday time shall receive their regular compensation for working on the holiday.

Any regular employee whose regularly scheduled day off falls on a floating holiday shall accrue floating holiday time as provided in this Section.

3.4.3.2. Cesar Chavez's Birthday

Any employee who has at least eight hours of holiday or vested time banked time and requests Cesar Chavez's birthday off shall be granted such time off provided the employee's department or work unit meets its minimum staffing requirements.

3.4.4. Shift Designation

For the purposes of this Section, the night shift of the calendar day preceding the actual date of the regular holiday shall be considered Shift #1, the day shift of the regular holiday shall be Shift #2 and the p.m. shift of the regular holiday shall be Shift #3.

3.5. Bereavement Leave

Regular employees and job-share employees, who suffer a death in their "immediate family" may be allowed to be absent with pay for three (3) scheduled County work days for each family member who dies. Employees must take this leave within a seven consecutive day period and will be paid only for days and hours they were scheduled to work. Immediate family includes the spouse, domestic partner, child, parent, sibling, grandparent, great grandparent, grandchild or great-grandchild of the employee; or child, parent, sibling, grandparent, great grandparent, grandchild or great-grandchild of the employee's spouse or domestic partner.

In addition, employees may use an additional two (2) days of accrued leave for the death of the employee's spouse, domestic partner, parent or child. Such additional leave shall be used within 30 days of the death.

3.7. Military Leave

The following procedures and restrictions shall apply to military leave:

- (a) To be eligible for paid military leave, an employee must have at least twelve (12) months of qualifying service immediately prior to the leave. Qualifying service is continuous and consecutive County service or recognized military service. Recognized military service is defined as full-time service in the armed forces during a national or state emergency. Generally, recognized military service would be that during World War II, the Korean War, the Vietnam Conflict, or any conflict for which an expeditionary medal was awarded. This time requirement does not apply to declared emergency situations. Under such emergencies, any employee ordered to active duty is eligible for paid temporary military leave.
- (b) Temporary military leave with pay can be authorized for eligible employees only when they are ordered to active duty.
- (c) Weekend drills are not active duty. Departments will make reasonable attempts to change an employee's schedule to allow for off-duty attendance at monthly drills. If such accommodation is not possible, the employee may use leave as specified in (h).
- (d) A copy of the employee's order to active duty must accompany any military leave with pay.
- (e) Paid temporary military leave can be authorized for a maximum of thirty (30) calendar days in each fiscal year.
- (f) In calculating leave, holidays (floating or regular) which occur during an employee's military leave will be charged as holidays used rather than military leave.
- (g) All other calendar days encompassed by the order will be counted as military leave whether normally scheduled days or days off.
- (h) Employees will not be denied the right to use leave to attend active or inactive military duty. If the employee is not eligible for temporary military leave with pay, the employee may request a leave of absence without pay or use accrued vacation, holiday, or compensatory time off.
- (i) The total amount of temporary military leave, paid and unpaid, may not exceed 180 calendar days in one year.

3.8 Leave of Absence Without Pay

In accordance with Civil Service Rule 12, leaves of absence may be granted to regular employees for any of the following reasons:

- 1) Medical illness or disability not covered by accrued leave.
- 2) Maternity/Pregnancy.
- 3) Personal reasons.
- 4) Education or training.

3.8.1. Medical Leave Without Pay

Medical Leave Without Pay may be granted to probationary or permanent employees by the department head. Requests must be submitted with a statement from a California licensed physician stating the nature of the disability and the estimated duration of the disability. A medical leave may be granted for a maximum of one year; (extensions may be possible, usually pending disability retirement). A leave of over 30 days must be approved by the Director of Human Resources.

3.8.2. Pregnancy Disability Leave

Pregnancy disability leave without pay shall be granted to temporary, contract, and regular employees in accordance with state and federal laws. Leave for medical reasons shall be granted with a physician's statement, and employees may use sick leave or other accrued leave in accordance with Section 3 of this Memorandum.

Current law provides up to 16 weeks of leave for pregnancy disability. Employees may also be eligible for an additional 12 weeks of leave under CFRA Section 3.9.1 of this Memorandum. The County will comply with any state or federal law and reserves any rights of restrictions.

3.8.3. Educational Leave

Educational Leave without pay may be granted to permanent employees by the department if the leave furthers the department's goals and the employee's last performance evaluation was at least satisfactory. Initially, leave of up to one (1) year may be granted and may be extended up to an additional year.

3.8.4. Personal Leave of Absence

Personal Leave of Absence may be granted to a permanent employee by the department head for reasons acceptable to the department head. The employee's last performance evaluation must be at least satisfactory. Leave may initially be granted for up to one (1) year and may be extended up to an additional year.

Forms for request of leave of absence are maintained in each department. Requests for leave of absence shall be submitted sufficiently in advance of the proposed effective date to permit the department head and the Director of Human Resources to take action prior to that date.

3.8.5. Effect of Unpaid Leave of Absence on Other Leaves

No employee who has been granted a leave of absence without pay shall accrue any vacation, sick leave or holiday during the time of such leave nor shall such time count toward gaining permanent status.

3.9 Family Leave

3.9.1 State Family Leave

In accordance with State law, any employee with more than 12 months of service with the County and a minimum of 1250 hours on payroll in the 12 months prior to the start date of the leave, may take a family care leave of up to twelve (12) weeks or 480 hours in a 12-month period. An employee who takes such family care leave shall be returned to employment in the same or comparable position upon return from said leave.

Family care leave may be utilized in conjunction with the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care placement of the child, for the serious medical condition or illness of the employee, or to allow the employee to care for a parent, spouse, domestic partner, or child who has a serious health condition.

For the purposes of this Section, the terms “employment in the same or a comparable position”, “child”, “parent”, and serious health condition” are as defined in Section 12945.2 of the Government Code.

The reasonable advanced notice, scheduling and certification requirements of 12945.2(g), (h), and (i) shall also apply.

An employee who takes family care leave shall be required to use accrued vacation, compensatory time, floating holiday and regular holiday time during such leave. In accordance with County regulations governing the use of sick leave, the employee may also use accrued sick leave time. An employee on State Disability Insurance shall not be required to use more leave than is necessary, in conjunction with SDI, to receive a full paycheck.

An employee who takes family care leave in an unpaid status shall be eligible for fringe benefit on the same terms as an employee on any other unpaid leave of absence.

For issues related to illness, this section applies to medical leaves of absence that meet the definition of a “serious health condition” as defined in Section 12945.2 of the Government Code or Section 29 CFR 825.114 of the Family Medical Leave Act.

3.9.2 Federal Family Medical Leave Act

San Joaquin County will comply with the Federal Family Medical Leave Act, maintaining all rights and provisions that are permitted by the Federal Family Medical Leave Act.

3.9.3 School Activities

The County of San Joaquin shall comply with any federal or state law requiring an employer to grant time off to participate in a child's school activities. Current state law provides that parents may take up to 40 hours per year, but not more than eight (8) hours per month, to participate in their children's school activities. Current state law provides that at the request of the employer the employee shall provide documentation as proof of the employees' participation in their children's school activities on a specific date and at a particular time. For purposes of this section "documentation" means whatever written verification of parental participation the school or licensed child day care facility deems appropriate and reasonable. Employees working a shift greater than eight (8) hours per day may take one full shift per month, subject to the 40 hour maximum. An employee may take unpaid leave or may use accrued vacation, compensatory, or floating holiday.

3.10 Catastrophic Leave Program

3.10.1. Conditions of Participation

Applications for receipt of catastrophic leave donations will be processed by SJCAA.

- (a) A County employee becomes eligible to receive catastrophic leave donations when the following two (2) conditions both occur:
 - (1) The employee has exhausted, or will soon exhaust all his/her accrued leave, as a result of a verifiable long-term illness or injury suffered by either the employee or an immediate family member, as defined in San Joaquin County Ordinance Code Section 2-5230.
 - (2) The employee has received approval for an unpaid leave of absence from his/her Department Head.
- (b) Employees may donate accrued vacation, compensatory time or holiday time; sick leave may not be donated.
- (c) Donations may be made in whole hour increments from a minimum of four (4) to a maximum of sixteen (16) hours per donor in each donation period.

- (d) Donors must have an overall leave balance of 80 hours remaining after donated time has been deducted.
- (e) Once donated to an individual, donated leave cannot be reclaimed by the donor.

3.10.2. Processing of Donations

Upon receipt of donation authorizations, the Auditor-Controller shall take the following actions:

- (a) Verify that donating employee has minimum required leave balance required for the donation and convert donated time to dollars at the hourly rate of the donor and subtract from the designated leave category. Pay supplements which are a percentage of base salary (except above class pay and special assignment pay) shall be added to the base salary prior to converting the value of the donated time to the recipient.
- (b) Convert donated dollars as computed above to hours at the hourly rate of the recipient, and add to recipient's sick leave balance.
- (c) Notify departments of changes in leave balances by noting Auditor adjustments on the payroll certs for the next payday.
- (d) Retain a confidential file of donation authorizations.

3.10.3. Treatment of Donated Time

Donated time is treated as sick leave accrued by the recipient of the donation.

Donated time does not alter the employment rights of the County or the recipient, nor extend or alter limitations otherwise applicable to Leaves of Absence or Sick Leave, except as noted in this agreement.

Employees who are utilizing donated sick leave hours will continue to accrue vacation and sick leave in accordance with the provisions of this Memorandum of Understanding.

If catastrophic leave donations are made due to the medical condition of an employee's immediate family member, the 64 hour limitation on the use of family sick leave is waived for absences resulting from that condition only.

3.11. Leave for Promotional Examinations

Employees shall be allowed the necessary time off with pay to participate in promotional examinations for the County, which are held during their regular work hours.

3.12. Effect of Re-Employment or Reinstatement on Leave Accrual Rates

A former employee who returns to County service shall not be entitled to accumulated sick leave benefits unless the return to County service is the result of reinstatement within one year of termination of employment OR is a result of re-employment after a layoff due to lack of work, lack of funds, or in the interest of economy.

Employees who are reinstated to County service within one year of termination of employment will be returned to the same vacation accrual rate and salary grade step that was held at the time of separation.

4. COMPENSATION

4.1. Salaries

Unless expressly provided to the contrary by this Memorandum or Board Order, Resolution, or Ordinance, salaries and hourly rates of pay for all earned leave time, including but not limited to sick leave, vacation, compensatory time off, holiday, and bereavement leave, and salaries and hourly rates of pay for all additional compensation, including but not limited to overtime, supplemental pay, standby pay, call-back pay, holiday premium pay and pay for work above class, shall be computed solely by reference to an employee's base salary or base hourly rate. All negotiated salaries shall remain as adopted for the life of this Memorandum unless mutually agreed otherwise in writing.

Payment of base salary increases or other increases in the salary range during the agreement will be made pursuant to the County's salary grid that was made effective June 29, 1992.

The County and SJCAA agree that the parties will negotiate, upon request, the salaries of new classes established as a result of a reclassification of positions.

The County and SJCAA agree that all employees (including regular, temporary, contract, and extra help) covered by this memorandum shall receive base salary adjustments as follows:

1. Effective the first full biweekly pay period following ratification by the Board of Supervisors specified classifications shall receive equity adjustments to base salary as follows:
 - a. Child Support Attorney I & II - 2.5%
 - Deputy District Attorney I and II - 2.5%
 - Deputy Public Defender - 2.5%

- b. Child Support Attorney III and IV - 4%
Deputy District Attorney III and IV - 4%
Deputy Public Defender III and IV - 4%
2. Effective the first full biweekly pay period following adoption by the Board of Supervisors all employees in this unit shall receive a Cost of Living Adjustment of 4% to base salary.
3. Effective January 7, 2008 specified classifications shall receive equity adjustments to base salary as follows:
 - a. Child Support Attorney III and IV - 1.5%
Deputy District Attorney III and IV - 1.5%
Deputy Public Defender III and IV - 1.5%
4. Effective July 7, 2008, all employees shall receive a Cost of Living Adjustment to the base salary equal to 100% of the California Urban Wage Earners and Clerical Workers Consumer Price Index, for the one-year period ending December 2007 rounded to the nearest ½% with a minimum of 2% and a maximum of 4%.
5. Not later than March, 2009 the County shall conduct a benchmark total compensation survey, including the current ten (10) survey counties, and the current data points. The County agrees to utilize the same survey class matches and acquire the same corresponding survey data for the Attorneys unit survey as is utilized for surveys conducted during the term of this MOU for the classifications of Deputy County Counsel.
6. Effective July 6, 2009 all employees shall receive a Cost of Living Adjustment to the base salary equal to 100% of the California Urban Wage Earners and Clerical Workers Consumer Price Index, for the one-year period ending December 2008 rounded to the nearest ½% with a minimum of 2 1/2 % and a maximum of 4%.
7. Effective January, 2010 specified classes shall receive an equity adjustment to base salary equal to 1/2 of the percentage by which the classifications benchmark total compensation is below the median total compensation for such classification (as determined by the benchmark survey referred to in subsection e) above.
8. Effective July 5, 2010 all employees shall receive a Cost of Living Adjustment to the base salary equal to 100% of the California Urban Wage Earners and Clerical Workers Consumer Price Index, for the one-year period ending December 2009 rounded to the nearest ½% with a minimum of 2 1/2% and a maximum of 4%.
9. Effective January, 2011 specified classes shall receive an equity adjustment to base salary equal to 1/2 of the percentage by which the classifications benchmark total compensation is below the median total compensation for such classes.

Consistent with the clarifying decision of the Board of Supervisors on April 6, 2004, in calculating the appropriate cost of living adjustment the methodology utilized will be the State of

California Division of Labor Statistics & Research Consumer Price Index Annual Average Calculator.

4.1.1. Equity Survey

The County will complete a total compensation survey one-hundred twenty (120) days prior to the expiration of this agreement, pursuant to Appendix A.

4.2.1. General

No employee shall receive supplemental pay when on vacation, sick leave, sick leave in conjunction with the receipt of State Disability Insurance or Worker's Compensation temporary disability payments, compensatory time off, holiday, or paid military leave unless such employee shall have been performing duties for a period of not less than four (4) full bi-weekly pay periods or such supplemental duties are scheduled, upon assignment, to last not less than four (4) full bi-weekly pay periods. Unless otherwise specified by the appointing authority or the appointing authority's designee, such shift assignment shall be presumed to be scheduled upon assignment for at least four (4) full bi-weekly pay periods.

4.2.2. Special Assignment Supplement

The Director of Human Resources may authorize a 5% salary increase to any employee designated by the County Administrator to be on special assignment.

4.2.3. Shift Differential

Effective the first pay period after ratification by the Board of Supervisors, the Shift Differential shall be \$1.00 per hour for p.m. and split shifts and \$1.26 per hour for night shifts. Effective July 2, 2002 the Shift Differential will be increased to \$1.15 per hour for p.m. and split shifts and \$1.45 per hour for night shifts.

For purposes of payment of shift differential the following times shall apply:

- DAY: Any work shift which begins on or after 4:00 a.m. and before 12:00 noon.
- P.M.: Any work shift which begins on or after 12:00 noon and before 8:00 p.m.
- NIGHT: Any work shift which begins on or after 8:00 p.m. and before 4:00 a.m.

4.2.4. Standby Pay

A department head, with the approval of the County Administrator, may designate employees in certain classes to be in a standby status. An employee who is on standby status must be at a location where the employee can be reached at all times and upon being called shall return to

work immediately. An employee who is recalled to work shall be deemed to be off standby status and the employee shall not receive standby pay for the hours the employee is paid to work, whether on a straight time or overtime basis.

Employees who perform standby duty shall be compensated at 20% of their regular hourly rate.

4.2.5. Work Above Class

A department head may temporarily assign any employee to perform duties normally assigned to a classification with a higher salary without changing the salary of such employee provided the temporary assignment does not exceed five (5) work days in a thirty (30) calendar day period or twenty (20) work days in a one hundred and eighty (180) calendar period. If an employee is assigned to a classification with a higher salary range for more than five (5) work days in a thirty (30) calendar day period or twenty (20) work days in a one hundred and eighty (180) calendar period, the employee shall be compensated, beginning with the sixth day of such above-class assignment, at an amount equal to what the employee would receive if promoted to the higher class, or 5% if no class exists. Such assignment must receive approval of the Director of Human Resources. Assignments to cover routine vacation or sick leave absences will not be approved. Vacation or sick leave absences in excess of two weeks shall not be considered routine.

Employees who are being paid for working in a higher classification are not eligible for merit increases in the higher classification. Whenever an employee working in a higher classification receives a merit increase in the employee's regular classification or the employee's regular salary is otherwise increased or decreased, the employee's pay for working above class shall be adjusted so that the employee continues to be compensated at the rate specified above.

4.2.12 Bilingual Pay

- a) Employees in the Attorney Unit may receive bilingual pay at 41 cents per hour only if they meet all of the following criteria:
 - 1) Have passed a bilingual proficiency examination administered by the Human Resources Division;
 - 2) Have been approved by the County Administrator or designee;
 - 3) Have been designated by the appointing authority in a position designated as requiring bilingual skills at least 40% of the time, such as an assigned bilingual caseload.

- b) Although effort will be made to use as interpreters employees receiving bilingual pay, no employee shall refuse to assist in interpretation for clients or patients on an occasional basis. When the bilingual skill is no longer required, the department head shall terminate the bilingual compensation by written notice to the Human Resources Director and shall notify the employee.

4.2.16 Parking Supplement Downtown

Effective upon implementation of the Select and Premier Healthcare Plans the County agrees to contribute the actual cost not to exceed \$17.00 per biweekly pay period, directly to the Central Parking District, for eligible employees who work in the Downtown Core Area as defined in the report on Employee Parking in Downtown Stockton as adopted by the Board of Supervisors February 13, 2001. Eligible employees utilizing parking lots that are not part of the Central Parking District will be reimbursed for the actual amount of their monthly parking receipt to \$36.83 per month as submitted with a County Expense Reimbursement Claim form through their departments normal reimbursement process.

During the term of the agreement the County may explore alternative downtown parking options which will be in lieu of the parking supplement as described above.

4.3. Paycheck Exceptions

A paycheck exception is defined as the incorrect reporting of payroll or failure to process the following payroll actions, causing an employee to receive less than the pay to which he/she is entitled for that pay period: step increases, supplemental pays, overtime. Paycheck exceptions (except overtime exceptions) in excess of \$100 in terms of gross pay, if presented by noon on the Friday following payday, shall be paid within two (2) working days of presentation of the claim to the Auditor-Controller. Overtime exceptions shall be paid no later than the following paycheck.

All payroll errors resulting in gross pay overpayment, net pay overpayment or granting of other compensation or benefits in error must be repaid to the County. Employees shall be allowed, at employee's option, to use accrued annual and holiday leave and compensatory time to repay the County in cases of payroll errors resulting in gross salary overpayment. Such errors may result from use of an incorrect salary rate, reporting the wrong number of hours worked, or misclassification of hours worked.

Accrued annual and holiday leave and compensatory time may not be used to repay the County for net salary overpayments that do not result from gross salary errors. Such errors include, but are not limited to, underwithholding of deductions for employee-paid benefits and taxes. Employees may repay a net salary overpayment, due to an underwithholding, over the same amount of pay-periods that the underwithholding occurred.

4.4 Mileage And Travel Expenses

If it is legally possible to do so, the County shall grant advance travel pay when requested by the employee at such times as the employee is traveling outside the County on County business.

Effective upon adoption by the Board of Supervisors the mileage allowance for use of personal vehicles on County business shall be paid according to the rates allowed by the Internal Revenue Service and shall be adjusted to reflect changes in this rate the beginning of the first full bi-weekly pay period following announcement of the changed rate by the Internal Revenue Service.

Meal and lodging reimbursement shall be authorized and paid in accordance with procedures and requirements listed in Section 3500 of the Administrative Manual of San Joaquin County. Those reimbursement limits shall not be changed without meeting and conferring with SJCAA.

Travel time for County-authorized training shall be computed in accordance with FLSA procedures.

4.5 Deferred Compensation Contribution

The County of San Joaquin may maintain a Section 457 Deferred Compensation Plan. The allowable contribution shall be the maximum allowed by the Internal Revenue Service Code.

The County, at its sole discretion, will have the right at any time during the period covered by this agreement to develop charges necessary for the administration of the plan or plans, and implement said charges for active and inactive participants, to be paid by active and inactive participants. In any case, the charge will not exceed the actual cost to the County for administration of the plan or plans as computed by the Auditor-Controller under standard accounting practices for cost allocation purposes.

Before implementing a payroll deduction charge, the County will make every effort to negotiate with the plan vendors and/or third-party administrator(s) to recoup the County cost from their management fees.

4.6 Severance Pay

Any member of this bargaining unit employed by the County in an allocated position on or before the date of adoption of this agreement by the Board of Supervisors, who is laid off from regular County employment or voluntarily accepts a lay off in lieu of another employee shall receive \$2,500 in severance pay. The employee may elect to receive the money in lump-sum payment or defer receipt for purchase of eligible insurance benefits through an Internal Revenue Code, Section 125 Plan. To qualify for severance pay, employees are required to sign a waiver and release affirming that, in exchange for their receipt of severance pay, they waive any right to initiate claims against the County pertaining to their employment and the severance thereof.

5. DAYS AND HOURS OF WORK — OVERTIME

5.1. Work Week

Unless otherwise provided for in this Memorandum or in any Resolution or Board Order, the base compensation for employees shall be deemed to be compensation per bi-weekly pay period and is predicated upon a forty (40) hour work week. A bi-weekly pay period shall consist of eighty (80) working hours and the base compensation provided shall be payment in full for all services rendered to the county except as otherwise provided.

5.1.1 Work Site Closure

If the County Administrator or designee closes a work site because it is unsafe or because work operations cannot be carried out, regular employees who are scheduled to work and who are not reassigned to alternate work sites and are subsequently sent home shall receive administrative pay for the remainder of the scheduled work day. Other regularly scheduled employees who are sent home may be paid, at the discretion of the department head, for the balance of their scheduled work day. Such employees sent home shall remain available to return to the work site for the duration of the time on which they are administrative leave.

The County will make all reasonable efforts to relocate or reassign employees affected by such situations and may continue affected employees on paid leave for the duration of the closure. Employees will not be assigned to work in job functions for which they are not qualified.

All attempts shall be made by the County Administrator or designee to locate another work site/facility as quickly as possible.

5.2. Working Hours

In accordance with the Board of Supervisors' policy, a department head may change the working hours of individual employees to accommodate functional needs of the department so long as no change is made in the regular hours of the department.

5.3. Overtime

For the purposes of determining an employee's eligibility for overtime compensation, all straight time hours on payroll shall be considered "hours worked".

If, in the judgment of a department head or duly-authorized designee, work beyond an employee's normal work day or work week is required, the department head or designee may order such overtime work. The department head or designee will give reasonable advance notice of such schedule changes, except in unusual or unforeseen circumstances. Except as provided in this Section, employees shall be eligible for overtime compensation when:

- (a) an employee works in excess of the number of hours in his/her normal work day except that any part-time employee shall not be eligible for overtime until such employee works at least 12 hours in a day.
- (b) an employee works in excess of eighty (80) hours in a bi-weekly pay period;
- (c) an employee whose normal work week is five (5) scheduled eight (8) hour days in a calendar week of seven (7) days works more than forty (40) hours and five (5) days in a calendar week;
- (d) an employee who, because of shift changes, works two (2) or more shifts in any twenty-four (24) hour period and is off duty less than eight (8) hours between shifts. In such case, the employee shall be compensated for any additional shift(s) in the same manner as for other overtime notwithstanding (b) and (c) above;
- (e) an employee is required to work during a lunch period for which the employee does not ordinarily receive compensation.

5.4. Overtime Exception

Employees whose normal work week varies from the normal five (5) days in a calendar week of seven (7) days shall not be eligible for overtime compensation except as described in (a), (b), and (d) above.

5.5. Call-Back Overtime

5.5.1. Definition

Call-back overtime is defined as overtime required of an employee who, following completion of the employee's assigned work day, is notified to report back to duty. Contiguous overtime, or overtime assigned to be worked within one (1) hour after completion of the regular work shift, or overtime assigned by the department head or designee which is performed at a time convenient to the employee shall be excluded from the three (3) hour minimum unless such overtime is performed on a regular day off.

5.5.2. Compensation

An employee who performs call-back overtime shall receive credit for the actual time worked, but not less than three (3) hours credit each time the employee is called back. An employee who performs call-back overtime shall be compensated according to the provisions of Section 5.6.

5.6. Compensation for Overtime

Employees shall be compensated for overtime in accordance with their Group designation:

- (a) Group 0 employees are those exempt from FLSA and do not receive Administrative Leave as described in Section 5.6(a) (1) of this Memorandum of Understanding.
- (b) Group 1 employees are those employed in classifications eligible for exemption from the overtime provisions of the Fair Labor Standards Act (FLSA) and designated by the Board of Supervisors to be salaried and, therefore, exempt from the overtime provisions of the FLSA. These employees may be required to periodically or routinely work long or irregular hours to fulfill the responsibilities of their positions. These employees are not eligible to receive overtime compensation or compensatory time off. However, in recognition of the sometimes long and irregular hours which these employees are required to work to accomplish program objectives, the County will provide paid administrative leave as follows:
 - (1) Each fiscal year, the Department Head shall grant ten days of administrative leave to eligible salaried employees.
 - (2) The benefits provided by this program are not related to hours worked nor subject to accrual, and under normal circumstances may not be carried over beyond the end of the fiscal year.
- (c) Group 2 employees shall be compensated for overtime by either cash payment at the rate of one and one-half (1-1/2) times the employee's hourly salary (including applicable supplements) or by the accrual of compensatory time at the rate of one and one-half(1-1/2) times the overtime hours worked. The maximum compensatory time accumulation shall be eighty (80) hours and any additional overtime worked shall be compensated by cash payment at the rate of one and one-half (1-1/2) times the employee's hourly salary (including applicable supplements).
- (d) Group 4 employees are those working in positions which have been found to be non-exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Group 4 employees shall be compensated for overtime worked in the same manner as Group 2 employees.

For employees in Group 2 and Group 4, if the department head concludes that the department's budgetary situation allows latitude to confer either compensatory time off or overtime, the department will give good faith consideration to employee preference. Departmental conditions can change within fiscal years and determinations under this section are not grievable.

If an employee moves from a Group 2 or 4 position or class to a Group 0 or 1 position or class, or the employee's position is determined to be a Group 0 or 1 position or class, any accrued compensatory time off (CTO) will be paid to the employee.

5.7 Meals and Rest Periods

5.7.1. Rest Periods

To promote maximum productivity and morale, it is the policy of San Joaquin County that, when County operations permit, each employee shall be entitled to two (2) rest periods not exceeding fifteen (15) minutes each, during a regular eight (8) hour shift. When County operations permit, such rest periods are to be taken as nearly as possible in the middle of each four (4) hour segment of each employee's work day. Time allowed for rest periods may not be accumulated from one half of the workday to another, nor may rest periods be used to alter an employee's normal work hours and meal periods.

5.7.2. Meals During Overtime

Meals which must be consumed on the job after the normal workday and while working in an overtime situation are not to be considered as an interruption of overtime work performed. The County shall neither pay for nor provide meals, nor is an employee who takes a break for a meal to be considered as being in a paid status. An employee, upon request, shall be allowed to take a thirty (30) minute meal break after two (2) hours overtime and every four (4) hours thereafter. The County retains the right to refuse requests for meal breaks in the event of emergency.

5.8 Alternative Schedule

5.8.1. Flex Hours

The County and SJCAA shall negotiate, on request, flex time schedules on a department by department basis. Such negotiations shall be conducted between SJCAA and the County's designated negotiator.

The County and SJCAA agree that when a written request for flexible work schedules is denied, the Appointing Authority or designee shall respond to the request in writing (within 14 days) stating the reasons for the denial.

Flex time schedules are those alternate work schedules, including but not limited to a "4-10" plan or a "9-80" plan, which do not violate the Fair Labor Standards Act or Section 5.3. of this memorandum, unless otherwise agreed by the parties. No flex schedule arrangement shall be implemented until the County and SJCAA adopt a memorandum of understanding specifically setting forth provisions of the schedule with respect to overtime, holiday, sick leave and other affected benefits.

5.8.2. Job Sharing

Any regular, permanent full-time employee may agree to job-share a position, subject to approval by a Department Head and the Director of Human Resources.

5.8.2.1 Conditions of Participation

Employees must have permanent Civil Service status.

- a. Bi-weekly salary for job-sharing employees will be pro-rated. Pro-rated compensation will be based on each individual's step on the salary range.
- b. Vacation, sick leave, floating and regular holiday will be earned on a pro-rated basis.
- c. The dollar value of the County's contribution to health, dental and vision insurance, and the retirement value for one full-time allocated position will be pro-rated.
- d. Employees participating in a job-share agreement will be treated as temporary employees for retirement purposes only.
- e. If a vacancy does not exist when an employee who is participating in a job-share arrangement wishes to resume full-time employment, the employee will be required to maintain job-share status until a vacancy in the appropriated classification occurs. Job-share participants will be entitled to the first vacancy that occurs in the appropriate classification in their department or may consider the transfer option to another County department. Participants will be notified prior to the implementation of a position freeze or if the position is to be filled.
- f. Worker's Compensation will be administered in accordance with the Labor Code of the State of California.
- g. Employees are eligible for overtime compensation only after 40 hours in a work week.
- h. Limits to trading time, coverage during illness or vacation, the work schedule and total hours each employee will work during a pay period, will be set by the department head.
- i. If one participant in the job-share agreement terminates employment during the agreement and a replacement cannot be found within a reasonable time period, the remaining employee will be required to return to full-time status.
- j. For the purpose of interpreting minimum qualifications for open or promotional exams, work experience during the period the employee is participating in the job-share agreement will be calculated on a pro-rated basis.

5.10 Jury and Witness Duty

5.10.1. Jury Duty

Any regular employee who is summoned for attendance to any court for jury duty shall be deemed to be on duty and there shall be no loss of pay, however any jury fees (excluding payment for mileage) received by the employee shall be paid to the County.

5.10.2. Witness Duty

Any employee who shall be called as a witness in a case arising out of and in the course of the employee's County employment shall be deemed to be on duty and there shall be no loss of pay. Any witness fees received by the employee shall be paid to the County together with any mileage allowed if the employee uses County-provided transportation. If such witness duty is performed on a day on which the employee would normally not be working, the employee shall be deemed to be on duty and shall be compensated for overtime as provided in Section 5.3. An employee called as a witness in any other matter shall be deemed off duty.

5.11.1 Reassignment

The County and SJCAA agree that one of the factors to be assessed when involuntarily reassigning an employee shall be the seniority of the qualified employees.

Any employee who is involuntarily transferred may request a written statement from the appointing authority as to the reasons for the reassignment. This written response shall be issued within fourteen calendar days from the date of the request.

6. SALARY ADMINISTRATION

6.1. Salary Upon Appointment

New employees shall be appointed at the first step of the salary range adopted for the particular class of position to which the appointment is made. The Board of Supervisors or such individual as the Board may designate, upon certification of the Director of Human Resources that recruiting difficulties exist, may provide that a particular allocated position be filled at a step above the minimum of the range commensurate with the qualifications of the prospective appointee which are above the minimum requirements set forth in the class specifications.

Whenever such allocated position is filled in this manner, all incumbents of allocated positions who have qualifications above the minimum set forth in the class specification in the same class earning less than the step in the particular salary range at which the new employee enters may be raised to that step or to a lower step in the range upon the request of an appointing authority and the recommendation of the Director of Human Resources and subject to approval of the County Administrator.

Notwithstanding other provisions of this memorandum regarding merit advancement days, the merit advancement of all employees in that class of position may be changed in order to retain equitable relationships as recommended by the Director of Human Resources and approved by the County Administrator.

6.2 Step Increases

6.2.1. Regular Employees

A regular employee shall be required to serve a merit advancement period of twenty-six (26) bi-weekly pay periods on each step of the salary range assigned to the classification of which the employee is an incumbent before becoming eligible for advancement to the next higher step. An employee shall not advance to the next higher step until the employee receives the affirmative recommendation from his/her department head and the employee's eligibility for advancement has been verified by the Director of Human Resources. An employee shall not advance to the next higher step if his/her overall performance is evaluated as less than satisfactory. Nothing in this Memorandum shall be construed to provide that step increases are automatic.

Advancement within a salary range shall not be made more frequently than once in any period of twenty-six (26) consecutive pay periods nor shall any employee advance more than one step within a salary range at one time except as provided in Section 6.1. above.

6.2.3 Eligibility for Step Increases for Part-Time Employees (Non-Healthcare Professionals)

Effective the pay period nearest January 1, 2001 employees designated as part-time with 1300 hours of service in the prior calendar year and 2080 hours of unbroken service (not taken off payroll) shall be eligible for an increase to Step B. Thereafter, eligible part-time employees shall receive a further step increase for each additional 2080 hours of service.

6.3. Step Increases Withheld

Any step increase withheld because of administrative oversight or inadvertence shall be made retroactive to the normal effective date of the step increase.

Any step increase withheld for cause but, upon appeal, adjudicated in favor of the employee, shall be made retroactive to the normal effective date of the step increase or some intervening date determined by the adjudicating party. If the step increase is made retroactive to the normal effective date of the step increase, the employee shall retain the employee's current anniversary date. If some intervening date is determined by the adjudicating party, the employee shall not be eligible for the employee's next merit advancement for twenty-six (26) bi-weekly pay periods from the intervening date.

6.4. Salary Step On Promotion

An employee appointed to a position with a higher salary range shall have his/her salary adjusted to the first step of the new range or to the step in the new range which is at least 5% higher

than the salary the employee was receiving prior to the promotion, whichever is greater, provided that the new salary is within the new range. For the purposes of this Section, pay supplements which are a percentage of base salary (except above class pay and special assignment pay) shall be added to the pre-promotion base salary prior to determining the appropriate step in the new range. The effective date of the promotion shall become the new merit advancement date for the employee and he/she shall not be eligible to receive a merit step increase until fifty-two (52) weeks after such date.

6.5. Order of Adjustments

Whenever an employee is promoted and receives a range change or the employee's position is reclassified to a class having a higher salary range, on the employee's merit anniversary day the employee shall first receive the merit advancement increase to which he/she may be entitled and then receive such increases to which he/she may be entitled in the following order: salary adjustment, reclassification, promotion.

6.6 Salary Step on Demotion

If an employee is demoted to a position having a lower salary range because of lack of work or funds, or in the interests of economy, or for any reason other than discipline, the employee so demoted shall receive the next lower salary in the range assigned to the new position. The employee's merit anniversary date shall remain the same.

If an employee voluntarily demotes to a position having a lower salary range, the employee shall receive the salary in the new range which is equal to the salary in the prior position or, if none, the next lower salary in the range assigned to the new position.

6.7. "Y" Rates

Whenever an incumbent of a Civil Service exempt position accepts a demotion for reasons other than a disciplinary action to a class of position having a lower salary range, the Board of Supervisors may direct that the capital letter "Y" be set opposite the position to which the incumbent was demoted in the department budget and all payroll and other personnel records.

Whenever the effect of a reclassification is to place the incumbent in a Civil Service classified position having a lower salary range, the Board of Supervisors, upon the recommendation of the Civil Service Commission, may direct that the capital letter "Y" be set opposite the reclassified position in the department budget and all payroll and other personnel records.

Whenever the "Y" is set opposite a position, the incumbent shall continue to receive his/her previously authorized salary until termination of employment in the position, or until a higher rate of pay may be authorized, whichever comes first.

7.1 Definitions of Temporary and Part-Time

Definitions for part-time and temporary employment shall be as follows:

Part-Time: The status of an employee who is appointed to a position which is less than three quarters time (defined as not more than 1560 hours in a calendar year). A part-time position is ongoing in nature and anticipated to exceed six months' duration.

Temporary: The status of an employee who is appointed to a position which is either seasonal in nature (not to exceed seven months in a calendar year) and recurs year to year, or who covers peak workloads or regular employee absences (not to exceed nine months in a calendar year) in a position which is not ongoing in nature.

Part-time employees who meet the appropriate eligibility criteria may receive health insurance benefits (see Section 2.3.2.2), Step increases (see Section 6.2.3) and/or holiday pay (see Section 3.4.2.5).

7.2 Compliance With Part-Time/Temporary Definitions

The County will provide the Association with payroll data showing the number of hours worked by part-time employees in the prior six months on the pay period closest to June 1 and December 1 of each year. The County will provide the Association with payroll data showing the number of hours worked by temporary employees in the prior year on the pay period closest to January 1 of each year.

Disputes regarding violations of the part-time and temporary employee definitions shall be submitted directly to Labor Relations pursuant to the complaint procedure set forth in Section 17.

7.3 Combination of Part-Time Hours

An employee designated as part-time may combine the hours worked in two different positions in the same department for the purpose of establishing part-time status and eligibility for benefits.

8. RETIREMENT

8.1. Retirement Formula

The County shall maintain a fixed formula retirement in accordance with Section 31676.14 of the Government Code for County Retirement System General Members and Section 31664.1 for Safety Members. A three percent (3%) cost of living adjustment for Retirement System benefits shall be maintained in accordance with Section 31870.1 of the Government Code for County Retirement System Members.

8.2. Retirement Age and Service

The provisions of Section 31672 of the Government Code permitting age fifty (50) retirement with the completion of ten (10) years of continuous service, shall be maintained for County Retirement System Members.

8.3 Retirement Contributions

Employees' contributions to the retirement system shall be made on a pre-tax basis. County employees with thirty (30) or more years of service who, for that reason, are not making contributions to the Retirement System shall receive, in addition to their regular rate of pay, an amount equal to fifty percent (50%) of what their retirement contributions would be if they were still making such contributions.

The County shall pay fifty percent (50%) of the Retirement System General Member contributions in accordance with Section 31621.3 of the Government Code.

8.4 Retirement - Sick Leave Conversion

A sick leave credit account shall be established for each employee who: (1) separates from employment and concurrently assumes a retired status, either deferred, service, or disability, in the San Joaquin County Retirement Association; (2) continues such employee's coverage under a County health insurance plan; and (3) has at least one hundred and sixty (160) hours of accumulated sick leave as of the date of separation.

The account shall be credited upon separation with the eligible employee's total number of sick leave days for the purpose of paying the monthly health insurance premiums as well as the dental insurance premium for any dental plan offered by SJCAA. For the purposes of this section, each eight (8) hours of sick leave is equal to one (1) day.

The amount of credit allowed for each day of accumulated sick leave shall be calculated as follows:

For any eligible member as this unit employed by the County prior to the date of this Memorandum, the dollar value of the conversion shall be capped at \$221.24 for each eight (8) hours of sick leave.

Any employee hired after August 27, 2001 shall not be eligible for this benefit.

The account shall be eligible for use by the employee and the employee's dependents eligible under the plan, as of the effective date the retired employee is first paid a monetary retirement allowance by the Retirement Association and shall continue until such account is fully depleted, the employee ceases to be a member of the Retirement Association, or the employee and all the employee's dependents cease to be covered by the health insurance plan, whichever first occurs. Retirees who are on deferred status shall be eligible for health insurance coverage but may not utilize such account mentioned above until otherwise eligible.

8.5. Retirement Death Benefits

The death benefits provisions of Section 31789.3 of the Government Code shall be maintained for County Retirement System Members.

8.6. Retirement Information

Employees nearing retirement age who desire to discuss their retirement with the County Retirement Office shall be allowed to do so on County time.

8.7 Retirement Buy Back

For employees who wish to purchase previous temporary San Joaquin County service under the provisions of Government Code Section 31641.5, the County shall assume responsibility for 50% of the amount of the contribution the employee is required to pay in order to be credited with such service. The amount assumed by the County shall not become part of the employee's accumulated contributions and shall not be considered compensation for purposes of contributions to, or benefits from, the San Joaquin County Retirement Association.

8.8 Retiree Medical Reimbursement Trust

The County agrees to begin payroll deductions whenever the Association notified the County during the term of this MOU that Association members have begun contributing to their own Retiree Medical Reimbursement Trust.

9. TRAINING AND EDUCATION

9.1. In-Service and Job-Related Training

Employees who participate in County-mandated supplemental education programs shall either be assigned to such programs during their regular working hours or be compensated for each hour spent participating in such programs at the applicable overtime rate in accordance with this memorandum. Travel time for County-authorized training shall be computed in accordance with FLSA procedures.

Upon the request of an employee, at the time the employee is originally appointed or promoted, the County shall make every effort to provide intensified orientation on specific job functions.

9.2. Driver Training

When requested, all County employees will participate in the County Driver's Training Program as a mandatory requirement of being an employee of the County.

9.3. Educational Reimbursement Program

In accordance with the County's Educational Reimbursement Program, eligible employees may be reimbursed for career-related course work taken on the employee's own time. The minimum amount of reimbursement is \$10.00 and the maximum is \$850 per fiscal year; however, an employee enrolled in an approved degree program may be reimbursed up to \$800 per semester for a maximum of \$1600 per fiscal year.

The Educational Reimbursement Fund shall be \$110,000 per fiscal year.

Specific details and conditions of participation are included in Section 1700 of the County's Administrative Manual.

9.7 Professional Expense Reimbursement

Attorney members assigned to this unit shall be reimbursed in a lump sum payment up to \$520 per year as partial payment of California Bar Association dues, not to exceed the actual amount of the mandatory (statutorily required) amount of annual dues.

10. WORKER'S COMPENSATION AND EMPLOYEE SAFETY

10.1. Worker's Compensation

The waiting period for employees disabled out of or in the course of employment before an injured employee may begin collecting temporary disability payments shall be three (3) days. Such days shall be charged against sick leave or other applicable accrued leave time unless the employee is hospitalized as a result of the disability or the disability lasts for more than seven (7) days.

Employees who are receiving temporary disability indemnity payments under Division 4 or Division 4.5 of the Labor Code shall accumulate vacation (including seniority credit for the purposes of vacation accrual under Section 3.1), holidays and sick leave during such period of time that they are drawing such temporary disability indemnity. The County shall continue to provide health, dental, vision, and life insurance plan coverage for such employees as if they were on payroll as regular employees.

10.2. Worker's Compensation Leave

Notwithstanding other provisions of this Section, an employee who is disabled as a result of an injury or illness arising out of and in the course of employment and eligible for Worker's Compensation benefits shall have an automatic leave of absence until a ruling is made that recovery from disability is sufficient to release the employee. In such case, a leave of absence shall be considered canceled when permanent disability is established. The employee shall be considered as on leave and not considered to be scheduled to work.

10.3. Safety Equipment

The County shall provide employees with safety prescription glasses (glasses only, not prescription examination) whenever safety glasses are required by the CAL/OSHA or other State or Federal regulation. The County will not provide replacements for broken lenses or frames unless such breakage is the result of an on-the-job accident.

10.4. Physical Examinations

Employees required to take physical examinations to maintain licenses or employment with San Joaquin County shall be given physical examinations at San Joaquin General Hospital at no cost to the employee. The County will not pay for any examination not given at San Joaquin General Hospital.

10.5. Disputes Involving Safety Issues

The County shall comply with all applicable laws and regulations pertaining to workplace health and safety.

The following constitutes the sole health and safety appeal procedure between the parties and the issues brought to this Committee are not subject to appeal under Complaint Procedure.

The Safety Committee will be comprised of one member from each SJCAA represented bargaining unit, and an equal number of members designated by the County and will meet for organizational purposes within one month of ratification of this agreement by the Board of Supervisors. Either side may designate alternates. The committee will meet monthly and the committee may change the frequency of the meetings by majority vote.

Members shall be advised of Safety Committee meetings and their agendas in advance.

By majority vote of the Committee, as assigned and scheduled, the Safety Committee members, in Labor Management pairs, will be responsible for conducting workplace safety and health surveys and inspections to identify safety and health hazards at worksites and address worker concerns. County safety personnel will be kept fully apprised of all committee activity, and will assist the committee as requested.

Employees shall report any health and safety concerns first to their immediate supervisor. The supervisor shall have up to five business days, depending on the immediacy of the issue, to respond in writing to the employee. If the employee is not satisfied with the supervisor's response, they may appeal the matter in writing to the Department Health or his or her designee, within five business days. Unless there is a hazard or a danger, which would require an immediate response, the department head or his or her designee shall respond to these reports in writing within ten business days.

If not satisfied with the response from the department head or his or her designee, the employee or his or her designated representative may appeal, in writing, the issue to the Safety Committee. By majority vote, at its regular meeting, the Safety committee may agree to address the issue and make a recommendation to the County Administrator for resolution.

No employee shall be subject to discrimination or retaliation as prohibited by applicable law for reporting any health and safety concerns pursuant to this agreement.

11. EVALUATIONS AND PERSONNEL FILES

11.1. Employee Performance Evaluations

Any employee performance evaluation shall be prepared by the employee's supervisor who has the responsibility and authority to prepare such reports.

Employee performance evaluation reports shall be discussed with the employee prior to finalization of each category of the report.

An employee will receive an appointment with his/her department's reviewing officer to discuss the evaluation by signing the evaluation form in the space provided. Each department shall make a reasonable effort to ensure that the reviewing officer for this purpose has not been a party to the preparation of the evaluation. In no case shall the reviewing officer sign the evaluation form until a review has occurred.

Any regular or special evaluation with a rating of "unsatisfactory" shall include plans for employee development. Except in cases of termination, release from probation, or leave of absence, employees who receive an unsatisfactory performance evaluation must receive a follow-up evaluation. The follow-up evaluation shall cover a period of time no greater than ninety (90) calendar days from the date of the final review of the initial unsatisfactory evaluation.

An employee shall have the right to submit written comments regarding any evaluation and to have such comments included in his/her personnel file along with the evaluation.

11.1.1 Performance Evaluations and Workload

The County and SJCAA agree that one of the factors to be considered when completing Employee Performance Evaluations will be any increased workload given to the employee since the last evaluation.

11.2. Probationary Evaluations – Notice

For the purposes of the initial probationary period only, an employee who fails to complete probation and is released from probationary status within two weeks of the end of the probationary period shall be paid regular salary for the hours the employee would have been scheduled between the release date and the end of the probationary period.

11.3. Employee Personnel Files

Employees shall have the right to review and at their own expense obtain copies of their personnel file. Their official personnel file is located in the County's Human Resources Division. An employee's representative may inspect the contents of an employee's personnel files upon signed, dated authorization by the employee. Authorization shall be valid for sixty (60) calendar days from the date of signature.

The County reserves the right to withhold from employee review reports of an employee's pre-employment physical examination, records of an employee relating to investigation of possible criminal offense or other legally privileged records.

Employees shall be given an opportunity to read and initial any report to be added to their personnel files, but an employee shall not be required to sign any such report. An employee's signature on a report shall be understood to be acknowledgment of receipt and shall not be construed as agreement or disagreement with its content. If the employee refuses to sign any report, a notation to that effect may be entered on the document. A copy will be provided to the employee upon request.

An employee shall have the right to submit written comments regarding any document in his/her personnel file and to have such comments included in his/her personnel file along with the document.

11.4. Letters of Reprimand

An employee has the right to request in writing that a letter of reprimand be removed from the employee's personnel file if two years have elapsed from the date of reprimand and there has been no recurrence of the issue contained in the reprimand.

If the reprimand is in the department or division personnel file, the request must be directed to the department head or designee. If the reprimand is in the central Human Resources Division files, the request must be directed to the Director of Human Resources. The department head or designee, or the Director of Human Resources, whichever is appropriate, shall review the request and, within fourteen (14) calendar days render a decision on the request. The decision of any of the above individuals shall be final.

12. **EMPLOYEE LIABILITY**

A County employee's liability for acts or omissions within the scope of employment is established by Article 3, Division 3, of Title 1 of the Government Code of the State of California. Indemnification and defense of County employees, for claims against them arising out of acts or omissions within the scope of their employment, are set out in Article 4, Division 3.6 of Title 1 of the Government Code of the State of California.

The County and County employees recognize their respective rights and obligations under

these provisions of these laws as they exist at this time and as they may be amended or given final, binding judicial interpretation.

13. EMPLOYEE PROPERTY AND EQUIPMENT

13.1. Replacement of Damaged Property

Except for loss or destruction to currency, the county may provide for the payment of the cost of replacing or repairing property or prostheses of an employee, such as eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by the employee when any such items are lost or damaged in the line of duty without fault of the employee. If the items are damaged beyond repair, the actual value of such items may be paid. The value of such items shall be determined as of the time of the loss or damage. The Board of Supervisors delegates to the County Administrator the authority to grant or deny claims which do not exceed \$500.

14. LAYOFFS

14.1. Notice

Any permanent County employee who is a member of the County's Merit System and who is to be laid off or dismissed for other than disciplinary reasons shall be given fifteen (15) calendar days notice. This provision does not apply to probationary, provisional, or temporary employees. Nothing contained herein shall be deemed to require the County to pay an employee except for services rendered.

14.1.1. Meet and Confer

Fifteen calendar days prior to issuing any layoff notices, the County shall notify the Association in writing of the proposed layoffs. Such notice will identify the proposed layoffs by department and by classification. Upon the request of the Association in writing, the County will meet and confer with the Association regarding the effects of the proposed layoffs and will consider any proposals advanced by the Association regarding the effects of the proposed layoffs.

14.1.2 Mitigation

In order to mitigate the effect of lay-offs the County will provide employees identified for layoff with the opportunity to participate in an orientation program. The County will make all reasonable efforts to place employees who have been placed on any resulting layoff list. The County shall also provide a monthly mailing of the County Employment Bulletin and any other information deemed relevant by the Human Resources Division to all employees who remain on the layoff list.

14.1.3 Benefits

Employees who are provided a notice of layoff pursuant to section 14.1 of this Agreement shall have their eligibility for employee benefits extended for one pay period beyond the date

coverage would have terminated due to the notice of layoff. In such situation the County will make payment for benefits as provided in section 2.3.1 of this Agreement.

15. SUBSTANCE ABUSE REFERRALS

The San Joaquin County Attorneys Association acknowledges the right of Department Managers (at the Middle Management level and above) to refer employees suspected of being under the influence of alcohol or drugs while on duty to San Joaquin General Hospital (Satellite Clinic or Employee Health Services) or to other physicians to be evaluated as to their ability to perform their job. In acknowledging this right, the Association does not relinquish its right of individual employee representation or to challenge managers who use this provision without direct observable behaviors to support the referral.

The County shall offer training to Department Managers to aid in their detection and evaluation of behaviors which may lead to a referral. The County shall report to SJCAA, on a statistical basis, the results of referrals of employees so long as employee and patient confidentiality are not violated.

The County and SJCAA jointly recognize the value of the County's Employee Assistance Program in the evaluation and resolution of employee problems associated with substance abuse.

16. GRIEVANCE PROCEDURE

16.1. Definitions

Grievance: An alleged violation of a specific rule or regulation contained in the Civil Service Rules of San Joaquin County or in department rules.

Day: Calendar day(s)

Complaint: A dispute concerning the interpretation or application of ordinances, resolutions, policies, procedures or agreements, including memoranda of understanding. See Section 17 of this Memorandum.

Safety Issues: Disputes involving safety violations. See Section 10.5. of this Memorandum.

Disciplinary Actions: See Section 19 of this Memorandum.

16.2. Purpose/Rights

It is the intention of this procedure to resolve all issues at the lowest supervisory level possible. The employee has the right to representation at any and/or all steps of the procedure.

SJCAA may file and process grievances on behalf of employees, but the grievants must be identified by name if necessary to the processing of the grievance.

16.3. Filing Deadline

Grievances filed under this Section should be initiated within thirty (30) days from the time the employee knew or had reason to know of the facts giving rise to the grievance.

16.4. Grievance Processing

STEP 1: Any grievance shall be discussed with the employee's immediate supervisor. If the issue is not resolved at the supervisor's level within fifteen (15) working days from the day of presentation, the issue may be processed to the second step. If the department head is the immediate supervisor, the grievance shall be in writing and contain the information specified in Step 2 below.

STEP 2: If the grievance is not resolved at Step 1 of this procedure, then the grievance may be filed with the appointing authority or designee. The grievance must be in writing and must be filed within twelve (12) days of the response from Step 1 or from the date when such response was due. The grievance must state: (1) the specific rule or regulation which is alleged to have been violated; (2) the statement of facts comprising the violation; (3) the requested remedy. The appointing authority, or designee shall have fifteen (15) working days in which to investigate the issues and respond in writing to the grievance. NOTE: If the immediate supervisor, in Step 1 of this process, is the appointing authority or designee, Step 2 may be bypassed; however, the grievance must be in writing as specified above.

STEP 3: Within twelve (12) days of the receipt of the written response or date when the written response was due from the appointing authority or designee, the employee or representative may file the grievance with the County Administrator or designee. The grievance must be in writing and contain the information specified in Step 2 above. The County Administrator or designee shall have twenty-five (25) days from receipt of the grievance in which to investigate the grievance and issue a written response.

STEP 4: Within twelve (12) days of receipt of the Step 3 response, or from the date when written response was due, the grievant or representative may appeal in writing, to the Civil Service Commission. The Commission, at its next regular meeting, shall take the request under advisement and may schedule a hearing if requested as soon as practicable. Following any hearing, the Commission shall issue written findings and decisions which shall be final and binding.

All grievances shall be presented and acted upon in a timely manner. However, with the mutual consent of the parties, the time limitation for any step may be extended.

17. COMPLAINT PROCEDURE

17.1. Definitions

Complaint: A dispute concerning the interpretation or application of ordinances, resolutions, policies, procedures or agreements, including memoranda of understanding.

Day: Calendar day(s)

Grievance: An alleged violation of a specific rule or regulation contained in the Civil Service Rules of San Joaquin County or in department rules. See Section 16 of this Memorandum.

Safety Issues: Disputes involving safety violations. See Section 10.5. of this Memorandum.

Disciplinary Actions: See Section 19 of this Memorandum.

17.2. Purpose/Rights

It is the intention of this procedure to resolve all issues at the lowest supervisory level possible. The employee has the right to representation at any and/or all steps of the procedure.

SJCAA may file and process complaints on behalf of employees, but the complainants must be identified by name if necessary to the processing of the complaint.

17.3. Filing Deadline

Complaints filed under this Section should be initiated within thirty (30) days from the time the employee knew or had reason to know of the facts giving rise to the complaint.

17.4. Complaint Processing

STEP 1: Any complaint shall be discussed with the employee's immediate supervisor. If the issue is not resolved at the supervisor's level within fifteen (15) working days from the day of presentation, the issue may be processed to the second step. If the department head is the immediate supervisor, the complaint shall be in writing and contain the information specified in Step 2 below.

STEP 2: If the complaint is not resolved at Step 1 of this procedure, then the complaint may be filed with the appointing authority or designee. The complaint must be in writing and must be filed within twelve (12) days of the response from Step 1 or from the date when such response was due. The complaint must state: (1) the specific policy, ordinance, resolution, procedure, or agreement which is alleged to have been violated; (2) the statement of facts comprising the violation; (3) the requested remedy. The appointing authority, or designee shall have fifteen (15) working days in which to investigate the issues and respond in writing to the complaint. NOTE: If the immediate supervisor, in Step 1 of this process, is the appointing authority or designee, Step 2 may be bypassed; however, the complaint must be in writing as specified above.

STEP 3: Within twelve (12) days of the receipt of the written response or date when the written response was due from the appointing authority or designee, the employee or representative may file the complaint with the County Administrator or designee. The grievance must be in writing and contain the information specified in Step 2 above. The County Administrator or designee shall have twenty-five (25) days from receipt of the complaint in which to investigate the complaint and issue a written response.

STEP 4: Within twelve (12) days of receipt of the Step 3 response, or from the date when written response was due, the complaint may be filed, in writing and containing the information specified in Step 2 above, with the San Joaquin County Board of Supervisors for resolution by means of a hearing, the time and date of which shall be set by mutual agreement of the parties involved.

MEDIATION

a. Prior to submission of the complaint to the Board of Supervisors, the parties may mutually agree to submit the complaint to mediation in accordance with section 12B of the Employer-Employee Relations Policy.

THIRD-PARTY INTERVENOR

b. Prior to submission to the Board either party may submit the complaint to a third-party intervenor for review and recommendation on the resolution of the complaint, in accordance with Section 6 of the San Joaquin County Employer-Employee Relations Policy.

1. If the recommendation of the third-party intervenor is to uphold the complaint, the County will pay the cost of the intervenor.
2. If the recommendation of the third-party intervenor is to deny the complaint, the complainant will pay the cost of the intervenor.

The decision of the Board, whether after a hearing or after review of the recommendation of the third-party intervenor, is final and binding.

All complaints shall be presented and acted upon in a timely manner. However, with the mutual consent of the parties, the time limitation for any step may be extended.

18. ADVISORY ARBITRATION

As an alternative procedure for the resolution of impasses, the County and SJCAA may, upon mutual agreement, including agreement as to procedure, submit matters in dispute in the course of the meet and confer process to advisory arbitration. Further, disputes arising in a context other than the meet and confer process, e.g. disputes relating to administration of this Memorandum, to formal complaints, to interpretations of codes, resolutions, Board Orders, and ordinances dealing with employee rights and benefits shall, upon mutual agreement, be processed through an impasse procedure. Neither this Section nor the exercise of the option to utilize an impasse procedure shall be deemed as making any matter which is reserved to the County as a right of management in the Employer-Employee Relations Policy a matter subject to the meet and confer process.

19. DISCIPLINARY ACTIONS

19.1. Applicability

These procedures are not applicable to temporary, contract or probationary employees except as specified in Section 19.8.

To initiate disciplinary action against a permanent, Civil Service employee, the appointing authority must follow the provisions of Civil Service Rule 18. The appointing authority must submit to the employee a written notice of intent to take disciplinary action and file a copy with the Human Resources Division. The notice must state specifically the reason(s) for the action and explain the employee's "Skelly" rights of appeal.

19.2. Request for Hearing

The employee may appeal the proposed action and request a hearing by responding in writing to the appointing authority within seven (7) calendar days of receipt of the notice. Upon receipt of a timely response, the appointing authority shall schedule and conduct a "Skelly" hearing as soon as possible.

19.3. Rights of Access

The employee shall be given access to copies of all materials supporting the proposed action and shall be provided with copies upon request.

19.4. Representation

The employee may be represented at the hearing by a representative of the employee's choice.

19.5. Conduct of Skelly Hearing

The appointing authority or designee shall be the hearing officer at the informal "Skelly" hearing. Upon consideration of all materials and discussions presented at the hearing, the appointing authority may determine to uphold, modify, or revoke the proposed disciplinary action.

19.6. Order of Disciplinary Action

If the employee does not respond to the notice of intent within the prescribed time limits, or if, after hearing, the appointing authority determines that disciplinary action is appropriate, the appointing authority shall submit to the employee a written order of disciplinary action. The order shall state the proposed action, the reasons for the action, and the employee's rights of appeal.

19.7. Appeal of Order of Disciplinary Action

The employee, within seven (7) calendar days after the order is furnished to the employee, may appeal the order in writing to the Director of Human Resources. The employee, in making the appeal, shall designate in writing whether the matter will be heard by the Civil Service Commission or whether the matter will be submitted to binding arbitration. In accordance with the provisions of Civil Service Rule 18, selection of one appeal method shall exclude the possibility of appeal through the alternate procedure on the same issue.

Appeal and arbitration hearings shall be conducted in accordance with Civil Service Rule 18.

19.8 Part-Time Employee Serious Discipline Appeal Procedure

The procedures described herein shall be the sole procedure to appeal the serious discipline (as defined in the Civil Service Rules, Rule 18, Section 1) of part-time employees. This appeal procedure shall not be available for any type of employment action that does not constitute serious discipline as defined in this Agreement.

Eligibility

Employees designated as “part-time” who have worked a minimum of 1300 hours in the prior calendar year and have a total of 2080 hours of unbroken service (not taken off payroll).

Review Process

Part-time employees who have been subjected to serious discipline may request a review meeting by submitting a written request to the appointing authority of the employee’s department within seven (7) calendar days of being notified of the serious discipline. The serious discipline of the part-time employee shall not be stayed or delayed pending completion of the review meeting.

Upon receipt of the request for a review meeting, the County shall provide a statement setting forth the reasons for the serious discipline and the materials supporting the decision. The part-time employee may be represented at the review meeting by a representative of his or her choice.


After completion of the review meeting, the reviewing manager shall determine whether there was a sufficient basis for the serious discipline. The reviewing manager shall then affirm, modify, or revoke the serious discipline in a written decision setting forth the basis for the decision. This decision shall be final, binding and non-appealable.

20. SUPERSESION AND MODIFICATION CLAUSE

Except as may hereinafter be agreed to in writing, and except for the San Joaquin County Employer-Employee Relations Policy, this Memorandum of Understanding contains the sole and entire agreement between the parties. It supersedes any and all other previous Memoranda of Understanding between the parties and incorporates by reference all such previous memoranda between the designated representatives of members of this representation unit and the County and also supersedes and incorporates by reference any and all Resolutions and Board orders adopted by the San Joaquin County Board of Supervisors which were adopted to implement any Memorandum of Understanding between the designated representatives of members of this representation unit and the County; other terms and conditions of employment not specified herein shall remain as they are for the term of this Memorandum of Understanding except that where the language of such Memoranda, Resolutions, Board Orders or such other terms and conditions of employment not specified herein conflicts with, or is different from, the language contained in this Memorandum, this Memorandum shall prevail and apply. The parties acknowledge and agree that neither of them has made any representations with respect to the subject matter of this agreement or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein. No waiver or modification of this agreement or any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto; no officer, employee or agent of the County has any authority to waive or modify this agreement or any covenant, condition or limitation herein contained without the express prior approval of the San Joaquin County Board of Supervisors or its designee.

DATED: 7/18/07

SAN JOAQUIN COUNTY

By 
Geoffrey L. Rothman

SAN JOAQUIN COUNTY
ATTORNEYS ASSOCIATION (SJCAA)

By 
Paul Goyette

TOTAL COMPENSATION STUDY

The County and Union agree to a total compensation study using Contra Costa, Sacramento, Stanislaus, Kern, Fresno, Ventura, Tulare, Santa Clara, Sonoma, and Alameda Counties.

The results of the study will be used as the basis for discussion of equity adjustments during the successor agreement. It is understood that equities are not a guarantee as a result of the survey, but will be the subject of negotiations.

The County will survey all classifications in the bargaining unit, except for classifications that are part of a series, as determined by Human Resources. In that case, only the journey level classification of the series will be surveyed. The journey level data will be used as the basis for discussion for equity adjustments for all classifications in the series. The survey will compare San Joaquin County classifications with like classifications in the surveyed counties with an emphasis on comparing job duties and requirements. The County will notice the Union with the list of classifications, as per above, to be surveyed 3 months prior to the survey being conducted.

The survey will be conducted by a firm that is selected by the Labor Relations Division. Prior to the awarding the contract the County will discuss the County's choice for the preferred vendor with the Union. Upon completion of the survey, the Labor Relations Division will share the raw data and the process, as it is available, with the Union. The County will pay the cost of the survey.

Based on the core items listed below, the study will calculate the median as it relates to the surveyed jurisdictions. The parties agree that the 5% below median standard will expire with the term of this MOU unless renegotiated by the parties.

If there are less than six (6) matches in the ten (10) jurisdictions the parties agree to discuss possible alternative jurisdictions on a case-by-case basis.

The Core survey elements that will be translated into a monthly figure are:

1. Wages – Top Step Monthly Salary
2. Deferred Compensation – Employer contribution
3. Health Benefits Insurance Premiums – Maximum county contribution for family coverage (Currently available plan only)
4. Dental Insurance Premiums – Maximum county contribution for family coverage

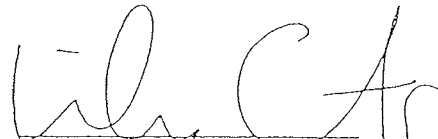
5. Vision Insurance Premiums – Maximum county contribution for family coverage
6. Life Insurance – monthly amount
7. Long Term Disability Insurance – monthly amount
8. Bonuses – only those that will always happen and are written into contract as such

Non-Core survey elements to be gathered:

1. Amount and date of last salary increase
2. Amount and date of any future negotiated salary increases
3. Expiration date of Memoranda of Understanding
4. Retirement Formula and employer contribution percent
5. Shift Differential
6. Retiree Medical Benefits
7. Sick Leave payout
8. Sick leave incentive plans
9. Bilingual pay


San Joaquin County

Date 2/26/04


SEIU

Date 2/26/04

Unfair Labor Practice Charges

The Association shall withdraw any pending Unfair Labor Practice Charges against the County related to the most recent collective bargaining program, and provide the County with written copies of its communication to PERB evidencing such action.