MEMORANDUM OF UNDERSTANDING

BETWEEN

CONTRA COSTA COUNTY

AND

CONTRA COSTA COUNTY DEFENDERS' ASSOCIATION

JULY 1, 2018 – JUNE 30, 2022

CONTRA COSTA COUNTY
DEFENDERS' ASSOCIATION

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ATTACHMENTS

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
CONTRA COSTA COUNTY DEFENDERS ASSOCIATION

This Memorandum of Understanding (MOU) is entered into pursuant to the authority contained in Division 34 of Board of Supervisors' Resolution 81/1165 and has been jointly prepared by the parties. The Chief of Labor Relations (County Administrator) is the representative of Contra Costa County in employer-employee relations matters as provided in Board of Supervisors Resolution 81/1165.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in units in which the Association is the recognized representative, have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations covering such employees.

This MOU shall be presented to the Contra Costa County Board of Supervisors, as the governing board of Contra Costa County, as the joint recommendations of the undersigned for salary and employee benefit adjustments for the term set forth herein.

DEFINITIONS

A. **Appointing Authority:** Department Head unless otherwise provided by statute or ordinance.

B. **Association:** The Contra Costa County Defenders Association.

C. **Class:** A group of positions sufficiently similar with respect to the duties and responsibilities that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.

D. **Class Title:** The designation given to a class, to each position allocated to the class, and to the employees allocated to the class.

E. **County:** Contra Costa County.

F. **Demotion:** The change of a permanent employee to another position in a class allocated to a salary range for which the top step is lower than the top step of the class which the employee formerly occupied except as provided for under Transfer or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classes.

G. **Director of Human Resources:** The person designated by the County Administrator to serve as the Assistant County Administrator-Director of Human Resources.

H. **Eligible:** Any person whose name is on an employment or reemployment or layoff list for a given class.

I. **Employee:** A person who is an incumbent of a position or who is on leave of absence in accordance with provisions of this MOU and whose position is held pending his return.

J. **Employment List:** A list of persons who have been found qualified for employment in a specific class.

K. **Layoff List:** A list of persons who have occupied positions allocated to a class in the Merit System and who have been involuntarily separated by layoff or displacement or demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement, or have transferred in lieu of layoff or displacement.

L. **Permanent-Intermittent Position:** Any position that requires the services of an incumbent for an indefinite period of time, but on an intermittent basis, as needed, paid on an hourly basis. Notwithstanding any other provision of this MOU, permanent-intermittent employees are entitled to an hourly wage and FLSA overtime, when applicable, but no other pays or employment benefits, unless this MOU specifically references “Permanent Intermittent” employees for a pay or benefit.

M. **Permanent Part-Time Position:** Any position which will require the services of an incumbent for an indefinite period, but on a regularly scheduled less than full-time basis.

N. **Permanent Position:** Any position which has required, or which will require the services of an incumbent without interruption, for an indefinite period.

O. **Promotion:** The change of a permanent employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied, except as provided for under Transfer or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classes.

P. **Position:** The assigned duties and responsibilities calling for the regular full-time, part-time or intermittent employment of a person.

Q. **Reallocation:** The act of reassigning an individual position from one class to another class at the same range of the salary schedule or to a class which is allocated to another range that is within five percent (5%) of the top step, except as otherwise provided for in the Personnel Management Regulations, deep class resolutions or other ordinances.

R. **Reclassification:** The act of changing the allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the kind, difficulty or responsibility of duties performed in such position.

S. **Reemployment List:** A list of persons who have occupied positions allocated to any class in the merit system and who have voluntarily separated and are qualified for consideration for reappointment under the Personnel Management Regulations governing reemployment.

T. **Resignation:** The voluntary termination of permanent employment with the County.

U. **Temporary Employment:** Any employment in the Merit System that requires the services of an incumbent for a limited period of time, paid on an hourly basis, not in an allocated position and not in permanent status. Notwithstanding any other provision of this MOU, temporary employees are entitled to an hourly wage and FLSA overtime, when applicable, but no other pays or employment benefits, unless this MOU specifically references “Temporary” employees for a pay or benefit.

V. **Transfer:** The change of an employee who has permanent status in a position to another position in the same class in a different department, or to another position in a class which is allocated to a range on the salary plan that is within five percent (5%) at top step as the class previously occupied by the employee.

SECTION 1 - ASSOCIATION RECOGNITION

The Contra Costa County Defenders' Association is the formally recognized employee organization for the representation units listed below, and such organization has been certified as such pursuant to Board of Supervisors' Resolution 81/1165.

CCC Public Defenders Association Unit
Public Defender Investigators Unit

SECTION 2 - ASSOCIATION SECURITY

2.1 Dues Deduction. Pursuant to Board of Supervisors' Resolution 81/1165, only a majority representative may have dues deduction and as such the Association has the exclusive privilege of dues deduction for all employees in its units.

The Association shall indemnify, defend, and save the County harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this association security Side Letter, or action taken or not taken by the County under this Side Letter. This includes, but is not limited to, the County's attorneys' fees and costs. The provisions of this subsection shall not be subject to the grievance procedure following the adoption of this Side Letter by the County Board of Supervisors.

2.2 Communicating With Employees. Representatives of the Association, not on County time, shall be permitted to place employee literature at designated locations in County buildings if arranged through the Department Head or designated representative.

2.3 Use of County Buildings. The Association shall be allowed the use of areas normally used for meeting purposes for meetings of County employees during non-work hours when:

A. Such space is available.

B. There is no additional material cost to the County.

C. It does not interfere with normal County operations.

D. Employees in attendance are not on duty and are not scheduled for duty.

E. The meetings are on matters within the scope of representation. The administrative official responsible for the space shall establish and maintain scheduling of such uses. The Association shall maintain proper order at the meeting, and see that the space is left in a clean and orderly condition. The use of County equipment (other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards) is strictly prohibited, even though it may be present in the meeting area.

2.4 Advance Notice. The Association shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board, or boards and commissions appointed by the Board, and to meet with the body considering the matter. The listing of an item on a public agenda, or the mailing of a copy of a proposal at least seventy-two (72) hours before the item will be heard, or the delivery of a copy of the proposal at least twenty-four (24) hours before the item will be heard, shall constitute notice. In cases of emergency when the Board, or boards and commissions appointed by the Board, determines it must act immediately without such notice or meeting, it shall give notice and opportunity to meet as soon as practical after its action.

2.5 New Employees.

A. The County will provide a written statement to each new employee hired into a classification in any of the bargaining units represented by the Association, that the employee's classification is represented by the Association and the name of a representative of the Association. The County will provide the employee with a packet of information which has been supplied by the Association and which may, at the Association's option, include a membership or dues deduction authorization form.

B. The County will provide written notice of both Employer-wide and department level new employee orientations (no matter how few participants, and whether in person, online or through other means or mediums) to the Association, at least ten (10) business days prior to the event.

C. The new employee orientation notice provided to the Association will include the date, time and location of the orientation.

D. Representatives of the Association shall be permitted to make a presentation of up to thirty (30) minutes, and present written materials, at the end of the orientation.

E. One bargaining unit member attending orientation as the Association representative shall be given paid release time sufficient to cover the Association's presentation and travel time. The Association will provide the name of any employee who they wish to be released at least 48 hours in advance to the Labor Relations Manager.

F. The County shall monthly furnish a list of all new hires to the Association.

2.6 Notification of Dues Deduction Changes. The Association shall regularly provide the County with the names of employees for whom dues deductions should be initiated, changed, or discontinued pursuant to this section in a manner that has been mutually agreed upon by the County and the Association and set forth in a separate protocol document. The Association will submit a spreadsheet in an agreed upon format to the Office of the Auditor-Controller via email. Requests for dues deductions received by the Auditor-Controller by the close of business at least five (5) business days prior to the end of the pay period will be implemented in the following pay period.

The Association certifies that it will only send requests to initiate dues deductions for employees who have authorized the deductions.

2.7 Assignment of Classes to Bargaining Units. The Employee Relations Officer or the Employee Relations Officer's designee shall assign new classes in accordance with the following procedure:

A. Initial Determination**.** When a new class title is established, the Employee Relations Officer or the Employee Relations Officer's designee shall review the composition of existing representation units to determine the appropriateness of including some or all of the employees in the new class in one or more existing representation units, and within a reasonable period of time shall notify all recognized employee organizations of his/her determination.

B. Final Determination**.** The initial determination is final unless within ten (10) days after notification a recognized employee organization requests in writing to meet and confer thereon.

C. Meet and Confer and Other Steps**.** The Employee Relations Officer or the Employee Relations Officer's designee shall meet and confer with such requesting organizations (and with other recognized employee organizations where appropriate) to seek agreement on this matter within sixty (60) days after the ten (10) day period in paragraph B, unless otherwise mutually agreed. Thereafter, the procedures in cases of disagreement, arbitration referral and expenses, and criteria for determination shall conform to Board of Supervisor's Resolution 81/1165.

SECTION 3 - NO DISCRIMINATION/AMERICANS WITH DISABILITIES ACT (ADA)

To the extent prohibited by applicable law the County shall not discriminate against an employee because of sex, race, creed, color, national origin, sexual orientation, age, disability or Association activities.

The County and the Association recognize that the Employer has an obligation to reasonably accommodate a qualified employee with a disability. If the County contemplates a reasonable accommodation to comply with the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (FEHA) and such accommodation would conflict with any provision of this Agreement, the County will notify the Association of the proposed accommodation. Upon request within ten (10) days following such notice, the Association may request that the County meet and confer with the Association on the impact of such accommodation. The Parties will meet within seven (7) days following the County's receipt of such notice to meet and confer.

If the County and the Association do not reach agreement, the County may implement the accommodation if required by law without further negotiations. Nothing in this MOU

shall preclude the County from taking actions necessary to comply with the requirements of the ADA or FEHA.

SECTION 4 - ASSOCIATION REPRESENTATIVES

4.1 **Attendance at Meetings.** Employees designated as Association representatives shall be allowed to attend meetings held by County agencies during regular working hours on County time as follows:

A. If their attendance is required by the County at a specific meeting, including meetings of the Board of Supervisors.

B. If their attendance is sought by a hearing body or presentation of testimony or other reasons.

A. If their attendance is required for meetings scheduled at reasonable times agreeable to all parties, required for settlement of grievances filed pursuant to Section 21 (Grievance Procedure) of this MOU.

B. If they are designated as an Association representative, in which case they may utilize a reasonable time at each level of the proceedings to assist an employee to present a grievance provided the meetings are scheduled at reasonable times agreeable to all parties.

C. If they are designated as spokesperson or representative of the Association and as such make representations or presentations at meetings or hearings on wages, salaries and working conditions; provided in each case advance arrangements for time away from the employee's work station or assignment are made with the appropriate department head, and the County agency calling the meeting is responsible for determining that the attendance of the particular employee(s) is required, including meetings of the Board of Supervisors and Retirement Board where items which are within the scope of representation and involving the Association are to be discussed.

D. Association representatives shall advise, as far in advance as possible, their immediate supervisor, or his/her designee, of their intent to engage in Association business. All arrangements for release time shall include the location, the estimated time needed and the general nature of the Association business involved (e.g. grievance meeting, Skelly hearing).

E. Official representatives of the Association shall be allowed time off on County time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the Chief of Labor Relations or designee or other management representatives on matters within the scope of representation, provided that the number of such representatives shall not exceed two (2) without prior approval of the Labor Relations Officer, and that advance arrangements for the time away from the work station or assignment are made with the appropriate Department Head.

4.2 **Association-Sponsored Training Programs.** The County shall provide a maximum of twenty-four (24) hours per year of release time for Association designated representatives to attend Association-sponsored training programs. Requests for release time shall be provided in writing to the Department and the County Human Resources Department at least fifteen (15) days in advance of the time requested. Department Heads will reasonably consider each request and notify the affected employee whether such request is approved within one (1) week of receipt.

SECTION 5 - SALARIES

5.1 General Wages.

1. Effective January 1, 2019, the base rate of pay for all classifications represented by the CCCDA will be increased by five percent (5%).

2. Effective July 1, 2019, the base rate of pay for all classifications represented by the CCCDA will be increased by four percent (4%).

3. Effective July 1, 2020, the base rate of pay for all classifications represented by the CCCDA will be increased by three percent (3%).

4. Effective July 1, 2021, the base rate of pay for all classifications represented by the CCCDA will be increased by four percent (4%).

Longevity Pay. Permanent, full-time and permanent part-time employees at ten (10) years of County service shall receive a two and one-half percent (2.5%) longevity pay differential. Permanent, full-time employees at fifteen (15) years of County service shall receive an additional two and one-half percent (2.5%) longevity pay differential. Permanent, full-time and permanent part-time employees who have completed twenty (20) years of Contra Costa County service will receive a two percent (2%) longevity differential effective on the first day of the month following the month in which the employee qualifies for the twenty (20) year service award. For those employees who completed twenty (20) years of service on or before November 1, 2012, this longevity differential will be paid prospectively only from November 1, 2012.

5.2 **Entrance Salary.** New employees shall generally be appointed at the minimum step of the salary range established for the particular class of position to which the appointment is made. However, the appointing authority may fill a particular position at a step above the minimum of the range if mutually agreeable guidelines have been developed in advance or the Director of Human Resources (or designee) offers to meet and confer with the Association on a case by case basis each time prior to formalizing the appointment.

5.3 **Anniversary Dates.** Anniversary dates will be set as follows:

A. New Employees. The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) months service provided however, if an employee began work on the first regularly scheduled workday of the

month the anniversary date is the first day of the calendar month when the employee successfully completes six (6) months service.

B. Promotions. The anniversary date of a promoted employee is determined as for a new employee in subsection 5.3 (Anniversary Dates) Paragraph A (New Employees) above.

C. Demotions. The anniversary of a demoted employee is the first day of the calendar month after the calendar month when the demotion was effective.

D. Transfer, Reallocation & Reclassification. The anniversary date of an employee who is transferred to another position or one whose position has been reallocated or reclassified to a class allocated to the same salary range or to a salary range which is within five percent (5%) of the top step of the previous classification, remains unchanged.

E. Reemployment. The anniversary of an employee appointed from a reemployment list to the first step of the applicable salary range and not required to serve a probation period is determined in the same way as the anniversary date is determined for a new employee who is appointed the same date, classification and step and who then successfully completes the required probationary period.

F. Notwithstanding other provisions of this Section 5 (Salaries), the anniversary of an employee who is appointed to a classified position from outside the County's merit system at a rate above the minimum salary for the employee's new class, or who is transferred from another governmental entity to this County's merit system, is one (1) year from the first day of the calendar month after the calendar month when the employee was appointed or transferred; provided however, when the appointment or transfer is effective on the employee's first regularly scheduled work day of that month, his/her anniversary date is one (1) year after the first calendar day of that month.

5.4 **Increments Within Range.** The performance of each employee, except those of employees already at the maximum salary step of the appropriate salary range, shall be reviewed on the anniversary date as set forth in subsection 5.3 (Anniversary Dates) to determine whether the salary of the employee shall be advanced to the next higher step in the salary range.

Advancement shall be granted on the affirmative recommendation of the appointing authority, based on satisfactory performance by the employee. The appointing authority may recommend denial of the increment or denial subject to one additional review at some specified date before the next anniversary which must be set at the time the original report is returned. Except as herein provided, increments within range shall not be granted more frequently than once a year, nor shall more than one (1) step within range increment be granted at one time. In case an appointing authority recommends denial of the within range increment on some particular anniversary date, but recommends a special salary review at some date before the next anniversary the special salary review shall not affect the regular salary review on the next anniversary date. Nothing herein shall be construed to make the granting of increments mandatory on the County. If an operating department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.

5.5 **Part-Time Compensation.** A part-time employee shall be paid a monthly salary in the same ratio to the full-time monthly rate to which the employee would be entitled as a fulltime employee under the provisions of this Section 5 (Salaries), as the number of hours per week in the employee's part-time work schedule bears to the number of hours in the full-time work schedule of the department.

5.6 **Compensation for Portion of Month.** Any employee who works less than any full calendar month, except when on earned vacation or authorized sick leave, shall receive as compensation for services an amount which is in the same ratio to the established monthly rate as the number of days worked is to the actual working days in such employee's normal work schedule for the particular month; but if the employment is intermittent, compensation shall be on an hourly basis.

5.7 **Position Reclassification.** An employee who is an incumbent of a position which is reclassified to a class which is allocated to the same range of the basic salary schedule as is the class of the position before it was reclassified, shall be paid at the same step of the range as the employee received under the previous classification.

An incumbent of a position which is reclassified to a class which is allocated to a lower range of the basic salary schedule shall continue to receive the same salary as before the reclassification, but if such salary is greater than the maximum of the range of the class to which the position has been reclassified, the salary of the incumbent shall be reduced to the maximum salary for the new classification. The salary of an incumbent of a position which is reclassified to a class which is allocated to a range of the basic salary schedule greater than the range of the class of the position before it was reclassified shall be governed by the provisions of subsection 5.9 (Salary on Promotion).

5.8 **Salary Reallocation & Salary on Reallocation.**

A. In a general salary increase or decrease, an employee in a class which is reallocated to a salary range above or below that to which it was previously allocated, when the number of steps remain the same, shall be compensated at the same step in the new salary range the employee was

receiving in the range to which the class was previously allocated. If the reallocation is from one salary range with more steps to a range with fewer steps or vice versa, the employee shall be compensated at the step on the new range which is in the same percentage ratio to the top step of the new range as was the salary received before reallocation to the top step of the old range, but in no case shall any employee be compensated at less than the first step of the range to which the class is allocated.

B. If a classification is reallocated from a salary range with more steps to a salary range with fewer steps on the salary schedule, apart from the general salary increase or decrease described in subsection 5.8 (Salary Reallocation & Salary on Reallocation) paragraph A, each incumbent of a position in the reallocated class shall be placed upon the step of the new range which equals the rate of pay received before the reallocation. If the steps in the new range do not contain the same rates as the old range, each incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range, or if the new range does not contain a higher step, at the step which is next lower than the salary received in the old range.

C. If an employee is in a position which is reallocated to a different class allocated to a salary range the same as above or below the salary range of the employee's previous class, the incumbent shall be placed at the step in the new class which equals the rate of pay received before reallocation. If the steps in the range for the new class do not contain the same rates as the range for the old class, the incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the incumbent shall be placed at the step which is next lower than the salary.

5.9 **Salary on Promotion.** Any employee who is appointed to a position of a class allocated to a higher salary range than the class previously occupied, except as provided under Section 5.12 (Pay for Work in a Higher Classification), shall receive the salary in the new salary range which is next higher than the rate received before promotion. If this increase is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is at least five percent (5%) greater than the next higher step; provided however that the next step shall not exceed the maximum salary for the higher class. Upon appointment of a laid off employee from the layoff list to the class from which the employee was laid off, the employee shall be appointed at the step which the employee had formerly attained in the higher class unless such step results in a decrease in which case the employee is appointed to the next higher step. If, however, the employee is being appointed into a class allocated to a higher salary range than the class from which the employee was laid off, the salary will be calculated from the highest step the employee achieved prior to layoff, or from the employee’s current step, whichever is higher.

5.10 **Salary on Involuntary Demotion.** Any employee who is demoted, except as provided under subsection 5.11 (Salary on Voluntary Demotion), shall have his/her salary reduced to the monthly salary step in the range for the class of position to which he/she has been demoted next lower than the salary received before demotion. If this decrease is less than five percent (5%), the employee's salary shall be adjusted

to the step in the new range which is five percent (5%) less than the next lower step; provided, however, that the next step shall not be less than the minimum salary for the lower class. Whenever the demotion is the result of layoff, cancellation of positions or displacement by another employee with greater seniority rights, the salary of the demoted employee shall be that step on the salary range which he/she would have achieved had he/she been continuously in the position to which he/she has been demoted, all within-range increments having been granted.

5.11 **Salary on Voluntary Demotion.** Whenever any employee voluntarily demotes to a position in a class having a salary schedule lower than that of the class from which he or she demotes, his or her salary shall remain the same if the steps in his or her new (demoted) salary range permit, and if not, the new salary shall be set at the step next below former salary.

5.12 **Pay for Work in Higher Classification.** When an employee in a permanent position in the merit system is required to work in a classification for which the compensation is greater than that to which the employee is regularly assigned, the employee shall receive compensation for such work at the rate of pay established for the higher classification pursuant to subsection 5.9 (Salary on Promotion) of this Memorandum of Understanding, at the start of the second full day in the assignment, under the following conditions. Payment shall be made retroactive after completing the first forty (40) consecutive hours worked in the higher classification.

A. When an employee is assigned to a program, service or activity established by the Board of Supervisors which is reflected in an authorized position which has been classified and assigned to the Salary Schedule.

B. The nature of the departmental assignment is such that the employee in the lower classification performs a majority of the duties and responsibilities of the position of the higher classification.

C. Employee selected for the assignment will normally be expected to meet the minimum qualifications for the higher classification.

D. The County shall make reasonable efforts to offer out of class assignments to all interested employees on a voluntary basis. Pay for work in a higher classification shall not be utilized as a promotional procedure provided in this Memorandum of Understanding.

E. Higher pay assignments shall not exceed six (6) months except through reauthorization.

F. If approval is granted for pay for work in a higher classification and the assignment is terminated and later re-approved for the same employee within one hundred eighty days (180) no additional waiting period will be required.

G. Any incentives (e.g., the education incentive) and special differentials (e.g., bilingual differential) accruing to the employee in his/her permanent position shall continue.

H. During the period of work for higher pay in a higher classification, an employee will retain his/her permanent classification, and anniversary and salary review dates will be determined by time in that classification; except that if the period of work for higher pay in a higher classification exceeds one year continuous employment, the employee, upon satisfactory performance in the higher classification, shall be eligible for a salary review in that class on his/her next anniversary date. Notwithstanding any other salary regulations, the salary step placement of employees appointed to the higher class immediately following termination of the assignment shall remain unchanged.

I. Allowable overtime pay, shift differentials and/or work location differentials will be paid on the basis of the rate of pay for the higher class.

5.13 **Payment.** On the tenth (10th) day of each month, the Auditor will draw a warrant upon the Treasurer in favor of each employee for the amount of salary due the employee for the preceding month; provided however, that each employee (except those paid on an hourly rate) may choose to receive an advance on the employee's monthly salary, in which case the Auditor shall, on the twenty-fifth (25th) day of each month, draw his/her warrant upon the Treasurer in favor of such employee. The advance shall be in an amount equal to one-third (1/3) or less (at the option of the employee) of the employee's basic salary of the previous month except that it shall not exceed the amount of the previous month's basic salary less all requested or required deductions. The election to receive the advance shall be made on the prescribed form (form M-208, revised 5/81) and submitted by the fifteenth (15th) of the month to the department payroll clerk who will forward the card with the Salary Advance Transmittal/Deviation Report to the Auditor-Controller (Payroll Section). Such an election would be effective in the month of the submission and would remain effective until revoked. In the case of an election made pursuant to this Section 5.13, (Payment), all required or requested deductions from salary shall be taken from the second installment, which is payable on the tenth (10th) day of the following month.

5.14 **Discretionary Steps.**

A. The Public Defender may grant a performance step(s) to incumbents in the class of Deputy Public Defender IV, subject to the following conditions:

1. Each performance step is equal to two and one-half percent (2½%) of the affected employee's base salary rate in effect on December 31 preceding the effective date of the increase.

2. The Public Defender may award a maximum of two (2) merit steps to the same employee for the same calendar year.

3. The affected employee's base salary rate must be at the top merit step of the salary range.

4. The award must be based on an annual evaluation of work performance.

5. The performance step(s) will be awarded effective January 1st of the applicable calendar year.

6. Each performance step shall remain in effect for twelve (12) months from the date performance pay is granted. The Public Defender may renew the step(s) award in increments of twelve (12) months at his or her discretion.

7. The Public Defender may rescind a performance step(s) effective the first of any month based on an evaluation of performance.

B. The Public Defender shall provide to the Department staff by January 31st of each year the names of employees who have been awarded performance pay.

C. Effective June 30, 2015, the Public Defender may grant a performance step(2) to employees in the classification of Deputy Public Defender III subject to the conditions described in Section 5.14A, above.

5.15 <u>Parallel Deputy Public Defender Compensation Adjustments.</u>

A. Except as provided in subsection 5.1, General Wages, of this Section, the Parties agree that the base salary rates and ranges for the corresponding level(s) of the Public Defender classification series shall be subject to the same generally applicable base salary rate increases and decreases as are applied to the corresponding level(s) of the Deputy District Attorney classification series at the same time such increases or decreases are applied to that level. For example, if the Deputy District Attorney classification series is granted a two percent increase, the Deputy Public Defender classification series will receive a two percent increase. For purposes of this subsection, corresponding levels are:

- Deputy Public Defender Fixed-Term corresponds to Deputy District Attorney Fixed-Term;
- Deputy Public Defender I, II and III corresponds to Deputy District Attorney Basic; and
- Deputy Public Defender IV corresponds to Deputy District Attorney Advanced.

Nothing in this subsection shall be construed to prevent, truncate, or negate in any manner any term of the Parties' Special Agreement concerning Agreed Upon Temporary Absences ("ATA").

B. Subsection 5.15, paragraph A does not apply to the Deputy Public Defender special assignment classification.

C. If the County and Deputy District Attorneys Association hereafter enter into an MOU that includes any new benefits, deletes or modifies existing benefits, the same new benefit or deletion or modification of existing benefits shall simultaneously apply to the Deputy Public Defenders classification series. For purposes of this provision, only new, modified, or deleted benefits included for the Deputy District Attorney Fixed Term classification apply to the Deputy Public Defender Fixed Term classification.

SECTION 6 - DAYS AND HOURS OF WORK

6.1. Definitions.

A. **Regular Work Schedule:** A regular work schedule is eight (8) hours per day, Monday through Friday, inclusive, for a total of forty (40) hours per week.

B. **Workweek for Employees on Regular Work Schedules:** For employees on a regular work schedule, the workweek begins at 12:01 a.m. on Monday and ends at 12 midnight on Sunday.

6.2 Timestamp: Each and every temporary and permanent intermittent employee (hereafter called "hourly employees") must timestamp in and out as he/she begins his/her work shift/day, finishes his/her work shift/day, and takes meal breaks.

6.3 Accrual Usage: The use of leave accruals must be reported in one minute increments and may not be rounded.

6.4 Automated Time Keeping: The Association agrees to the implementation of an automated timekeeping system by the County. The Association waives its right to meet and confer regarding any impacts that result from the County's implementation of the automated timekeeping system. The Association agrees to convert from the current monthly payroll procedures with an advance to a new payroll procedure to be determined.

SECTION 7 – OVERTIME AND COMPENSATORY TIME OFF

7.1 Application of Overtime and Compensatory Time Off. Overtime pay and compensatory time off provided in subsection 7.2, Overtime, subsection 7.3, Compensatory Time, and subsection 7.4, Straight Time Pay and Straight Time Compensatory Time, do not apply to employees in classifications in the Public Defender series or to other employees exempt from overtime under the Fair Labor Standards Act.

7.2 Overtime.

A. Permanent full-time and part-time employees will be paid overtime pay or overtime compensatory time off for any authorized work performed:

1) in excess of forty (40) hours per week; or

2) in excess of eight (8) hours per day and that exceed the employee's daily number of scheduled hours. For example, an employee who is scheduled to work ten (10) hours per day and who works eleven (11) hours on a particular day will be paid one (1) hour of overtime.

Work performed does not include non-worked hours. Overtime pay is compensated at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and any other special differentials). Any special differentials that are applicable during overtime hours worked will be computed on the employee's base rate of pay, not on the overtime rate of pay.

Overtime for permanent employees is earned and credited in a minimum of one-tenth hour (6 minute) increments and is compensated by either pay or compensatory time off.

B. Permanent Intermittent and temporary employees will be paid overtime pay for any authorized work performed in excess of forty (40) hours per week or in excess of eight (8) hours per day. Work performed does not include non-worked hours. Overtime pay is compensated at the rate of one and one-half (1.5) times the employee's hourly base rate of pay (not including shift or any other special differentials). Any special differentials that are applicable during overtime hours worked will be computed on the employee's base hourly rate of pay, not on the overtime rate of pay.

7.3 **Compensatory Time.** The following provisions shall apply:

A. Employees may annually elect to accrue overtime compensatory time off in lieu of overtime pay. Eligible employees who elect to receive compensatory time off must agree to do so for a full fiscal year (July 1 through June 30). The employee must notify his/her departmental payroll staff of any change in the election by May 31 of each year.

B. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.

C. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.

D. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty [80] hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls

below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.

E. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in d above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.

F. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or his/her designee and the employee. Compensatory time off shall not be taken when the employee should be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section 7.3 (Compensatory Time). This provision may be waived at the discretion of the Department Head or his or her designee.

G. When an employee promotes, demotes, or transfers from one classification eligible for compensatory time off to another classification eligible for compensatory time off within the same department, the employee's accrued compensatory time off balance will be carried forward with the employee.

H. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth in subsection 7.3 (Compensatory Time) paragraph I below.

I. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, they shall be paid their accrued hours of compensatory time at the straight time rate of pay whenever:

1. The employee changes status and is no longer eligible for compensatory time off.

2. The employee promotes, demotes or transfers to another department.

3. The employee separates from County service.

4. The employee retires.

J. The Office of the County Auditor-Controller will establish timekeeping procedures to administer this Section 7 (Overtime and Compensatory Time Off).

7.4 **Straight Time Pay and Straight Time Compensatory Time.**

A. Permanent full-time and part-time employees are eligible to receive straight time pay or straight time compensatory time off for hours worked in excess of the employee's daily number of scheduled hours that do not qualify for overtime pay as described in section 7.2, above.

B. Straight time pay is calculated at the rate of one (1.0) times the employee's base rate of pay (not including differentials or shift pays).

C. Straight time compensatory time off is accrued at the rate of one (1.0) times the number of straight time hours worked as defined in 7.4.A. above. The election of compensatory time off for overtime hours in lieu of overtime pay means that the employee also elects to receive compensatory time off for straight time hours in lieu of straight time pay. An employee cannot elect to receive straight time compensatory time off for straight time hours if the employee does not also elect to receive compensatory time off for overtime hours, and vice versa. For employees who receive straight time compensatory time off in lieu of straight time pay, except as otherwise set forth in this section 7.4, the rules for administration of compensatory time off described in section 7.3, above, apply to straight time compensatory time off.

SECTION 8 - CALL BACK TIME

Any Public Defender Investigator or Investigator Aide who is called back to duty will be paid for Call Back Time. Call Back Time occurs when an employee is not scheduled to work and is not on County premises, but is called back to work on County premises or for a County work assignment. An employee called back to work will be paid Call Back Time Pay at the rate of one and one-half (1.5) times his/her base rate of pay (not including differentials) for the actual Call Back Time worked plus one (1) hour. An employee called back to work will be paid a minimum of two (2) hours for each Call Back Time event.

SECTION 9 - WORKFORCE REDUCTION/LAYOFF/REASSIGNMENT

9.1 **Workforce Reduction.** If funding reductions or shortfalls in funding occur in a department or are expected, which may result in layoffs, the department will notify the Association and take the following actions:

A. Identify the classification(s) in which position reductions may be required due to funding reductions or shortfalls.

B. Advise employees in those classifications that position reductions may occur in their classifications.

C. Accept voluntary leaves of absence from employees in those classifications which do not appear to be potentially impacted by possible position reductions when such leaves can be accommodated by the department.

D. Consider employee requests to reduce their position hours from full-time to part-time to alleviate the impact of the potential layoffs.

E. Approve requests for reduction in hours, lateral transfers, and voluntary demotions to vacant, funded positions in classes not scheduled for layoffs within the department, as well as to other departments not experiencing funding reductions or shortfalls when it is a viable operational alternative for the department(s).

F. Review various alternatives which will help mitigate the impact of the layoff by working through the Tactical Employment Team (TET) program to:

1. Maintain an employee skills inventory bank to be used as a basis for referrals to other employment opportunities.

2. Determine if there are other positions to which employees may be transferred.

3. Refer interested persons to vacancies which occur in other job classes for which they qualify and can use their layoff eligibility.

4. Establish workshops to aid laid off employees in areas such as resume preparation, alternate career counseling, job search strategy, and interviewing skills.

G. When it appears to the Department Head and/or Chief of Labor Relations (or designee) that the Board of Supervisors may take action which will result in the layoff of employees in the Public Defender representation unit, the Chief of Labor Relations (or designee) shall notify the Association of the possibility of such layoffs and shall meet and confer with the Association regarding the implementation of the action.

9.2 <u>Separation Through Layoff.</u>

A. <u>Grounds for Layoff.</u> Any employee(s) having permanent status in position(s) in the merit service may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Supervisors deems sufficient for abolishing the position(s).

B. <u>Order of Layoff.</u> The order of layoff in the department shall be based on inverse seniority in the class of positions, the employee in the department with least seniority being laid off first and so on.

C. Layoff By Displacement.

1. In the Same Class. A laid off permanent full-time employee may displace an employee in the department having less seniority in the same class who occupies permanent part-time position, the least senior employee being displaced first.

2. In the Same Level or Lower Class. A laid off or displaced employee who had achieved permanent status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace within the department and in the class an employee having less seniority; the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.

D. Particular Rules on Displacing.

1. Permanent part-time employees may displace only other permanent part-time employees with less seniority holding permanent positions of the same type respectively.

2. A permanent full-time employee may displace any part-time employee with less seniority.

   a) In the same class as provided in Section 9.2 (Separation Through Layoff) paragraph C sub-paragraph 1 (In the Same Class) or,

   b) In a class of the same or lower salary level as provided in Section 9.2 (Separation Through Layoff) paragraph C sub-paragraph 2 (In the Same Level or Lower Class), if no fulltime employee in a class at the same or lower salary level has less seniority than the displacing employees.

3. Former permanent full-time employees who have voluntarily become permanent part time employees for the purpose of reducing the impact of a proposed layoff with the written approval of the Director of Human Resources or designee retain their permanent full-time employee seniority rights for layoff purposes only and may in a later layoff displace a full-time employee with less seniority as provided in these rules.

E. Seniority.

1. An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff.

Employees reallocated or transferred without examination from one class to another class having a salary within five percent (5%) of the former class, shall carry the seniority accrued in the former class into the new class. Employees reallocated to a new deep class upon its initiation or otherwise reallocated to a deep class because the duties of the position occupied are appropriately described in the deep class shall carry into the deep class the seniority accrued or carried forward in the former class and seniority accrued in the other class which have been included in the deep class. Service for layoff and displacement purposes includes only the employee's last continuous permanent County employment. Periods of separation may not be bridged to extend such service unless the separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the employee's layoff eligibility.

2. Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous permanent County employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the department in permanent employment. Any remaining ties shall be broken by random selection among the employees involved.

F. Eligibility for Layoff List. Whenever any person who has permanent status is laid off, has been displaced, has been demoted by displacement or as voluntarily demoted in lieu of layoff or displacement, or has transferred in lieu of layoff or displacement, the person's name shall be placed on the Layoff List for the class of positions from which that person has been removed.

G. Order of Names on Layoff. First, layoff lists shall contain the names of persons laid off, displaced, or demoted because of a layoff or displacement, or who have voluntarily demoted or transferred in lieu of layoff or displacement. Names shall be listed in order of layoff seniority in the class from which laid off, displaced, demoted, or transferred on the date of layoff, the most senior person listed first. In case of ties in seniority, the seniority rules shall apply except that where there is a class seniority tie between persons laid off from different departments the tie(s) shall be broken by length of last continuous permanent County employment with remaining ties broken by random selection among the employees involved.

H. Duration of Layoff & Reemployment Rights. The name of any person granted reemployment privileges shall continue on the appropriate list for a period of two (2) years. Persons placed on layoff lists shall continue on the appropriate list for a period of two (2) years.

I. Certification of Persons From Layoff Lists. Layoff lists contain the name(s) of person(s) laid off, displaced or demoted by displacement or

voluntarily demoted in lieu of layoff or displacement or transferred in lieu of layoff or displacement. When a request for personnel is received from the appointing authority of a department from which an eligible(s) was laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list from the department. When a request for personnel is received from a department from which an eligible(s) was not laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list who shall be subject to a probationary period. A person employed from a layoff list shall be appointed at the same step of the salary range the employee held on the day of layoff.

J. Removal of Names from Layoff Lists. The Director of Human Resources may remove the name of any eligible from a layoff list for any reason listed below:

1. For any cause stipulated in Section 404.1 (Causes for Disqualification) of the Personnel Management Regulations.

2. On evidence that the eligible cannot be located by postal authorities.

3. On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.

4. If three (3) offers of permanent appointment to the class for which the eligible list was established have been declined by the eligible.

5. If the eligible fails to respond to the Director of Human Resources or the appointing authority within ten (10) days to written notice of certification mailed to the person's last known address.

6. If the person on the reemployment or layoff list is appointed to another position in the same or lower classification, the name of the person shall be removed. However, if the first permanent appointment of a person on a layoff list is to a lower class which has a top step salary lower than the top step of the class from which the person was laid off, the name of the person shall not be removed from the layoff list. Any subsequent appointment of such person from the layoff list shall result in removal of that person's name.

K. Removal of Names from Reemployment and Layoff certifications. The Director of Human Resources may remove the name of any eligible from a reemployment or layoff certification if the eligible fails to respond within five (5) days to a written notice of certification mailed to the person's last known address.

9.3 **Notice.** The County agrees to give employees scheduled for layoff at least ten (10) work days notice prior to their last day of employment.

9.4 **Special Employment Lists.** The County will establish a T.E.T. employment pool which will include the names of all laid off County employees. Special employment lists for job classes may be established from the pool. Persons placed on a special employment list must meet the minimum qualifications for the class. An appointment from such a list will not affect the individual's status on a layoff list(s).

Employees in the T.E.T. employment pool shall be guaranteed a job interview for any vacant funded position for which they meet minimum qualifications. If there are more than five such employees who express an interest for one vacant funded position, the five most senior employees shall be interviewed. Seniority for this subsection shall be County seniority.

9.5 **Reassignment of Laid Off Employees.** Employees who are displaced within the same classification from fulltime to part-time status in a layoff, or who voluntarily reduced their work hours to reduce the impact of layoff, or who accepted a position of another status than that from which they were laid off upon referral from the layoff list, may request reassignment back to their pre-layoff status (full time or part-time or increased hours). The request must be in writing in accord with the department's reassignment bid or selection process. Employees will be advised of the reassignment procedure to be followed to obtain reassignment back to their former status at the time of the workforce reduction. The most senior laid off employee in this status who requests such a reassignment will be selected for the vacancy; except when a more senior laid off individual remains on the layoff list and has not been appointed back to the class from which laid off, a referral from the layoff list will be made to fill the vacancy.

SECTION 10 – HOLIDAYS

10.1 **Holidays Observed.**

A. The County will observe the following holidays:

January 1st, known as New Year's Day
3rd Monday in January known as
Dr. M. L. King, Jr. Day
3rd Monday in February, known as Presidents' Day
The last Monday in May, known as Memorial Day
July 4th, known as Independence Day
First Monday in September, known as Labor Day
November 11th, known as Veterans Day
4th Thursday in November, known as Thanksgiving
The Friday after Thanksgiving
December 25th, known as Christmas Day

Such other days as the Board of Supervisors may by resolution designate as holidays.

Any holiday observed by the County that falls on a Saturday is observed on the preceding Friday and any holiday that falls on a Sunday is observed on the following Monday.

B. Personal Holiday Credit. Employees are entitled to accrue two (2) hours of personal holiday credit per month. This time is prorated for part-time employees. Preference of personal holidays shall be given to employees according to their seniority in their department as reasonably as possible. No employee may accrue more than forty (40) hours of personal holiday credit. On separation from County service, employees are paid for any unused personal holiday credit hours at the employee's then current pay rate, up to a maximum of forty (40) hours.

10.2 Holiday is Not Worked and Holiday Falls on Scheduled Work Day.

A. Holidays Observed – Full-time Employees: Each full-time employee is entitled to observe a holiday (8 hours off work), without a reduction in pay, whenever a holiday is observed by the County.

B. Holidays Observed – Part time Employees: When a holiday is observed by the County, each part time employee is entitled to observe the holiday in the same ratio as his/her number of position hours bears to forty (40) hours, multiplied by 8 (hours), without a reduction in pay. For example, a part time employee whose position hours are 24 per week is entitled to 4.8 hours off work on a holiday (24/40 multiplied by 8 = 4.8). Hereafter, the number of hours produced by this calculation will be referred to as the "Part Time employee's holiday hours."

When the number of hours in a part time employee's scheduled work day that falls on a holiday ("scheduled work hours") is more than the employee's "Part Time employee's holiday hours," the employee must use non-sick leave accruals for the difference between the employee's "scheduled work hours" and the employee's "Part Time employee's holiday hours." If the employee does not have any non-sick leave accrual balances, leave without pay (AWOP) will be authorized.

10.3 Holiday is WORKED and Holiday Falls on Regularly Scheduled Work Day.

A. Full-Time Employees: When a full-time employee works on a holiday that falls on the employee's regularly scheduled work day, the employee is entitled to receive his/her regular salary. The employee is also entitled to receive holiday pay or holiday compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked, up to a maximum of eight (8) hours. This provision is applicable only to employees in the following classifications:

6N75 - Public Defender Investigative Aide
6N7A - Public Defender Investigative Assistant
6NWA - Public Defender Investigator I

6NVA - Public Defender Investigator II
6NVB - Senior Public Defender Investigative Aide

B. **Part-Time Employees:** When a part-time employee works on a holiday that falls on the employee's scheduled work day, the part-time employee is entitled to receive his/her regular salary. The part-time employee is also entitled to receive holiday pay or holiday compensation time at the rate of one (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday, up to a maximum of the amount of the "Part-time employee's holiday hours." This provision is applicable only to employees in the following classifications:

6N75 - Public Defender Investigative Aide
6N7A - Public Defender Investigative Assistant
6NWA - Public Defender Investigator I
6NVA - Public Defender Investigator II
6NVB - Senior Public Defender Investigative Aide

10.4 **Permanent Intermittent Employees - Holiday is Worked.** Permanent intermittent employees who work on a holiday are entitled to receive overtime pay at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday.

SECTION 11 - VACATION LEAVE AND ANNUAL ADMINISTRATIVE LEAVE

11.1 **Vacation Allowance.** Employees in permanent positions are entitled to vacation with pay. Accrual is based upon straight time hours of working time per calendar month of service and begins on the date of appointment to a permanent position. Increased accruals begin on the first of the month following the month in which the employee qualifies. Accrual for portions of a month shall be in minimum amounts of one (1) hour calculated on the same basis as for partial month compensation pursuant to Section 5.8 (Salary Reallocation and Salary Reallocation) of this MOU. Vacation credits may be taken in one minute increments but may not be taken during the first six (6) months of employment (not necessarily synonymous with probationary status) except where sick leave has been exhausted; and none shall be allowed in excess of actual accrual at the time vacation is taken.

11.2 **Vacation Leave on Reemployment From a Layoff List.** Employees with six (6) months or more service in a permanent position prior to their layoff who are employed from a layoff list, shall be considered as having completed six months tenure in a permanent position for the purpose of vacation leave. The appointing authority or designee will advise the Auditor- Controller's Payroll Unit in each case where such vacation is authorized so that appropriate payroll system override actions can be taken.

11.3 **Accrual Rates - Deputy Public Defenders.** The vacation schedule listed below shall be maintained for Deputy Public Defenders' Grades I, II, III, IV, and Deputy Public Defender Fixed-Term.

Length of Service	Hours	Maximum Cumulative Hours
Under 11 years	10	240
11 years	10 2/3	256
12 years	11 1/3	272
13 years	12	288
14 years	12 2/3	304
15 - 19 years	13 1/3	320
20 - 24 years	16-2/3	400
25 - 29 years	20	480
30 years and up	23-1/3	560

11.4 **Vacation Accrual Rates – Investigator and Investigator Aide.**

The rates at which vacation credits accrue for employees in the Public Defender Investigator and Public Defender Investigator Aide classifications, and the maximum accumulation thereof are as follows:

Length of Service	Monthly Accrual Hours	Maximum Cumulative Hours
Under 15 years	10	240
15 through 19 years	13-1/3	320
20 through 24 years	16-2/3	400
25 through 29 years	20	480
30 years and up	23-1/3	560

11.5 **Service Award Date Defined.** An employee's Service Award Date is the first day of his or her temporary, provisional, or permanent appointment to a position in the County. If an employee is first appointed to a temporary or provisional position and then later appointed to a permanent position, the Service Award Date for that employee is the date of the first day of the temporary or provisional appointment.

***Example One*:**

1. An employee's Service Award Date is January 1, 1988.

2. The employee reaches 20 years of service on January 1, 2008.

3. February 1, 2008 is the date on which the employee is eligible to begin accruing 16.66 hours of vacation time each month.

4. The increased vacation hours will first appear on the employee's March 10, 2008 pay warrant.

Example Two:

1. An employee's Service Award Date is February 24, 1987.

2. The employee reached 20 years of service on February 24, 2007.

3. March 1, 2007 is the date on which the employee is eligible to begin accruing 16.66 hours of vacation time each month.

4. The increased vacation hours will first appear on the employee's April 10, 2007 pay warrant.

11.6 **Accrual During Leave Without Pay.** No employee who has been granted a leave without pay or unpaid military leave shall accrue any vacation credit during the time of such leave, nor shall an employee who is absent without pay accrue vacation credit during the absence.

11.7 **Vacation Buy-Back.**

A. **FOR EMPLOYEES HIRED BEFORE NOVEMBER 1, 2012:**

Deputy Public Defenders may choose reimbursement for up to one-third (1/3) of their annual vacation accrual, subject to the following conditions:

1. The choice can be made only once in each calendar year.

2. Payment shall be based on an hourly rate determined by dividing the employee's monthly salary by 173.33.

3. The maximum number of hours that may be reimbursed in any one year is one-third (1/3) of the annual accrual.

B. **For Employees Hired On and After November 1, 2012:**
Employees promoted or hired by the County into any classification represented by the Contra Costa County Defenders Association on and after November 1, 2012, are not eligible for the Vacation Buy-Back benefit. However, any employee who was eligible for a Vacation Buy-Back benefit before promoting into a classification represented by the Contra Costa County Defenders Association will retain that benefit after promoting into a classification represented by the Contra Costa County Defenders Association.

C. If a lump sum payment has been made in lieu of a retroactive general salary adjustment for a portion of the calendar year which is subsequent to exercise by an employee of the vacation buy-back provision herein, that employee's vacation buy-back shall be adjusted to reflect the percentage

difference in base pay rates upon which the lump sum payment was computed provided that the period covered by the lump sum payment included the effective date of the vacation buy-back.

11.8 **Vacation Allowance for Separated Employees.** On separation from County service, an employee shall be paid for any unused vacation credits at the employee's then current pay rate.

11.9 **Vacation Preference.** Use of vacation accruals is by mutual agreement between the employee and the supervisor and preference of vacation shall be given to employees according to their order of request as reasonably as possible unless otherwise provided in the supplemental sections of this Memorandum of Understanding.

11.10 **Annual Administrative Leave (Deputy Public Defenders).** On January 1st of each year, permanent full-time employees in paid status and in the classes of Deputy Public Defender I, II, III, and IV, and Deputy Public Defender Fixed-Term will be credited with ninety-four (94) hours of paid annual administrative leave to recognize the unavailability of overtime pay for Deputy Public Defenders. Employees appointed after July 1st will be credited with forty seven (47) hours of paid annual administrative leave on the first succeeding January 1st and will be credited with ninety-four (94) hours annually thereafter. Permanent part-time employees in paid status in the classifications identified above will be credited with pro-rata administrative leave as described herein. Annual administrative leave must be used during the calendar year in which credited and may not be carried forward. Paid administrative leave is separate from paid vacation and will be accounted for accordingly. Upon separation from County service, there shall be no payoff for unused administrative leave credits.

SECTION 12 - SICK LEAVE

12.1 **Purpose of Sick Leave.** The primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. It is a benefit extended by the County and may be used only as authorized; it is not paid time off which employees may use for personal activities.

12.2 **Credits to and Charges Against Sick Leave.** Sick leave credits accrue at the rate of eight (8) working hours credit for each completed month of service. Employees who work a portion of a month are entitled to a pro rata share of the monthly sick leave credit computed on the same basis as is partial month compensation.

Credits to and charges against sick leave are made in minimum amounts of one minute increments. Unused sick leave credits accumulate from year to year.

When an employee is separated other than through retirement, accumulated sick leave credits shall be canceled, unless the separation results from layoff, in which case the accumulated credits shall be restored if reemployed in a permanent position within the period of layoff eligibility.

Upon retirement, an employee's accumulated sick leave is converted to retirement on the basis of one day of retirement service credit for each day of accumulated sick leave credit.

12.3 Policies Governing the Use of Paid Sick Leave.

A. As indicated above, the primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. The following definitions apply:

1. "Immediate Family" means and includes only the spouse, son, stepson, daughter, stepdaughter, father, stepfather, mother, stepmother, brother, sister, grandparent, grandchild, niece, nephew, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, foster children, aunt, uncle, cousin, stepbrother, stepsister, or domestic partner of an employee and/or includes any other person for whom the employee is the legal guardian or conservator, or any person who is claimed as a "dependent" for IRS reporting purposes by the employee.

2. "Employee" means any person employed by Contra Costa County in an allocated position in the County service.

3. "Paid Sick Leave Credits" means those sick leave credits provided for by County Salary Regulations and this Memorandum of Understanding.

4. "Condition/Reason". With respect to necessary verbal contacts and confirmations which occur between the department and the employee when sick leave is requested or verified, a brief statement in non-technical terms from the employee regarding inability to work due to injury or illness is sufficient.

B. Accumulated paid sick leave credits may be used, subject to appointing authority approval, by an employee in pay status, but only in the following instances:

1. Temporary Illness or Injury of an Employee. Paid sick leave credits may be used when the employee is off work because of a temporary illness or injury.

2. Permanent Disability Sick Leave. Permanent disability means the employee suffers from a disabling physical injury or illness and is thereby prevented from engaging in any County occupation for which the employee is qualified by reason of education, training or experience. Sick leave may be used by permanently disabled employees until all accruals of the employee have been exhausted or until the employee is retired by the Retirement Board, subject to the following conditions:

a. An application for retirement due to disability has been filed with the Retirement Board.

b. Satisfactory medical evidence of such disability is received by the appointing authority within 30 days of the start of use of sick leave for permanent disability.

c. The appointing authority may review medical evidence and order further examination as deemed necessary, and may terminate use of sick leave when such further examination demonstrates that the employee is not disabled, or when the appointing authority determines that the medical evidence submitted by the employee is insufficient, or where the above conditions have not been met.

3. Communicable Disease. An employee may use paid sick leave credits when under a physician's order to remain secluded due to exposure to a communicable disease.

4. Sick Leave Utilization for Pregnancy Disability. Employees whose disability is caused or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery there from, shall be allowed to utilize sick leave credit to the maximum accrued by such employee during the period of such disability under the conditions set forth below:

a. Application for such leave must be made by the employee to the appointing authority accompanied by a written statement of disability from the employee's attending physician. The statement must address itself to the employee's general physical condition having considered the nature of the work performed by the employee, and it must indicate the date of the commencement of the disability as well as the date the physician anticipates the disability to terminate.

b. Sick leave may not be utilized after the employee has been released from the hospital unless the employee has provided the County with a written statement from her attending physician stating that her disability continues and the projected dates of the employee's recovery from such disability.

5. Medical and Dental Appointments. An employee may use paid sick leave credits:

a. For working time used in keeping medical and dental appointments for the employee's own care; and

b. For working time used by an employee for pre-scheduled medical and dental appointments for an immediate family member.

6. Emergency Care of Family. An employee may use paid sick leave credits for working time used in cases of illness or injury to an immediate family member.

7. Death of Family Member. An employee may use paid sick leave credits for working time used because of a death in the employee's immediate family or of the employee's domestic partner, but this shall not exceed three (3) working days, plus up to two (2) days of work time for necessary travel. Use of additional accruals including sick leave when appropriate may be authorized in conjunction with the bereavement leave at the discretion of the appointing authority.

8. Legal Adoption of a Child. Paid sick leave credits may be used by an employee upon adoption of the child.

9. Accumulated paid sick leave credits may not be used in the following situations:

a. Vacation. Paid sick leave credits may not be used for an employee's illness or injury which occurs while he/she is on vacation but the Public Defender may authorize it when extenuating circumstances exist and the appointing authority approves.

b. Not in Pay Status. Paid sick leave credits may not be used when the employee would otherwise be eligible to use paid sick leave credits but is not in pay status.

12.4 Administration of Sick Leave. The proper administration of sick leave is a responsibility of the employee and the department head. Unless otherwise provided in the supplemental sections of this MOU, the following procedures apply:

A. Employee Responsibilities

1. Employees are responsible for notifying their department of an absence prior to the commencement of their work shift or as soon thereafter as possible. Notification shall include the reason and possible duration of the absence.

2. Employees are responsible for keeping their department informed on a continuing basis of their condition and probable date of return to work.

3. Employees are responsible for obtaining advance approval from their supervisor for the scheduled time of pre-arranged personal or family medical and dental appointments.

4. Employees are encouraged to keep the department advised of (1) a current telephone number to which sick leave related inquiries may be directed, and (2) any condition(s) and/or restriction(s) that may reasonably be imposed regarding specific locations and/or persons the department may contact to verify the employee's sick leave.

B. Department Responsibilities. The use of sick leave may properly be denied if these procedures are not followed. Abuse of sick leave on the part of the employee is cause for disciplinary action. Departmental approval of sick leave is a certification of the legitimacy of the sick leave claim. The department head or designee may make reasonable inquiries about employee absences. The department may require medical verification for an absence of three (3) or more working days. The department may also require medical verification for absences of less than three (3) working days for probable cause if the employee had been notified in advance in writing that such verification was necessary. Inquiries may be made in the following ways:

1. Calling the employee's residence telephone number or other contact telephone number provided by the employee if telephone notification was not made in accordance with departmental sick leave call-in guidelines. These inquiries shall be subject to any restrictions imposed by the employee under subsection 12.4 (Administration of Sick Leave) paragraph A.

2. Obtaining the employee's signature on the Absence/Overtime Record, or on another form established for that purpose, as employee certification of the legitimacy of the claim.

3. Obtaining the employee's written statement of explanation regarding the sick leave claim.

4. Requiring the employee to obtain a physician's certificate or verification of the employee's illness, date(s) the employee was incapacitated, and the employee's ability to return to work, as specified above.

5. In absences of an extended nature, requiring the employee to obtain from their physician a statement of progress and anticipated date on which the employee will be able to return to work, as specified above. Department heads are responsible for establishing timekeeping procedures which will insure the submission of a time card covering each employee absence and for operating their respective offices in accordance with these policies and with clarifying regulations issued by the Office of the County Administrator. To help assure uniform policy application, the Director of Human Resources or designated management staff of the County Human Resources Department should be contacted

with respect to sick leave determinations about which the department is in doubt.

12.5 Disability.

A. An employee physically or mentally incapacitated for the performance of duty is subject to dismissal, suspension or demotion, subject to the County Employees Retirement Law of 1937. An appointing authority after giving notice may place an employee on leave if the appointing authority has filed an application for disability retirement for the employee, or whom the appointing authority believes to be temporarily or permanently physically or mentally incapacitated for the performance of the employee's duties.

B. An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee's performance of duty, may order the employee to undergo at County expense and on the employees paid time a physical, medical examination by a licensed physician and/or a psychiatric examination by a licensed physician or psychologist, and receive a report of the findings on such examination. If the examining physician or psychologist recommends that treatment for physical or mental health problems, including leave, are in the best interests of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties the appointing authority may direct the employee to take such leave and/or undergo such treatment.

C. Leave due to temporary or permanent disability shall be without prejudice to the employee's right to use sick leave, vacation, or any other benefit to which the employee is entitled other than regular salary. The Director of Human Resources may order lost pay restored for good cause and subject to the employee's duty to mitigate damages.

D. Before an employee returns to work from any absence for illness or injury, other leave of absence or disability leave, exceeding two weeks in duration, the appointing authority may order the employee to undergo at County expense a physical, medical, and/or psychiatric examination by a licensed physician, and may consider a report of the findings on such examination. If the report shows that such employee is physically or mentally incapacitated for the performance of duty, the appointing authority may take such action as he/she deems necessary in accordance with appropriate provisions of this MOU.

E. Before an employee is placed on an unpaid leave of absence or suspended because of physical or mental incapacity under subsection 12.5 (Disability) paragraphs (A) or (B), the employee shall be given notice of the proposed leave of absence or suspension by letter or memorandum, delivered personally or by certified mail, containing the following:

1. A statement of the leave of absence or suspension proposed.

2. The proposed dates or duration of the leave or suspension which may be indeterminate until a certain physical or mental health condition has been attained by the employee.

3. A statement of the basis upon which the action is being taken.

4. A statement that the employee may review the materials upon which the action is taken.

5. A statement that the employee has until a specified date (not less than seven (7) work days from personal delivery or mailing of the notice) to respond to the appointing authority orally or in writing.

F. Pending response to the notice the appointing authority for cause specified in writing may place the employee on a temporary leave of absence with pay.

G. The employee to whom the notice has been delivered or mailed shall have seven (7) work days to respond to the appointing authority either orally or in writing before the proposed action may be taken.

H. After having complied with the notice requirements above, the appointing authority may order the leave of absence or suspension in writing stating specifically the basis upon which the action is being taken, delivering the order to the employee either personally or by mail, effective either upon personal delivery or deposit in the US Postal Service.

I. An employee who is placed on leave or suspended under this section may, within ten (10) calendar days after personal delivery or mailing to the employee of the order, appeal the order in writing through the Director of Human Resources to the Merit Board. Alternatively, the employee may file a written election with the Director of Human Resources waiving the employee's right to appeal to the Merit Board in favor of appeal to a Disability Review Arbitrator.

J. In the event of an appeal either to the Merit Board or the Disability Review Arbitrator, the employee has the burden of proof to show that either:

1. The physical or mental health condition cited by the appointing authority does not exist, or

2. The physical or mental health condition does exist, but it is not sufficient to prevent, preclude, or impair the employee's performance of duty, or is not sufficient to endanger the health or safety of the employee, other employees, or the public.

K. If the appeal is to the Merit Board, the order and appeal shall be transmitted by the Director of Human Resources to the Merit Board for

hearing under the Merit Board's Procedures, Section 1114-1128 inclusive. Medical reports submitted in evidence in such hearings shall remain confidential information and shall not be a part of the public record.

L. If the appeal is to a Disability Review Arbitrator, the employee (and his representative) will meet with the County's representative to mutually select the Disability Review Arbitrator, who may be a de facto arbitrator, or a physician, or a rehabilitation specialist, or some other recognized specialist mutually selected by the parties. The arbitrator's fees and expenses shall be paid one-half by the County and one-half by the employee or the employee's Association. The arbitrator shall hear and review the evidence. The decision of the Disability Review Arbitrator shall be binding on both the County and the employee. The scope of the arbitrator's review shall be as follows:

1. The arbitrator may affirm, modify or revoke the leave of absence or suspension.

2. The arbitrator may make his decision based only on evidence submitted by the County and the employee.

3. The arbitrator may order back pay or paid sick leave credits for any period of leave of absence or suspension if the leave or suspension is found not to be sustainable, subject to the employee's duty to mitigate damages.

12.6 <u>Workers' Compensation.</u>

A. <u>Benefit Level.</u> A permanent employee shall continue to receive the appropriate percent of regular monthly salary for all accepted claims filed before January 1, 2000, during any period of compensable temporary disability absence not to exceed one year. For all accepted claims filed with the County on or after January 1, 2000, the percentage of pay for employees entitled to Workers' Compensation shall be decreased from 87% to 86%. For all accepted claims filed with the County on or after January 1, 2007, the percentage of pay for employees entitled to Workers' Compensation shall be decreased from 86% to 80%. For all accepted claims filed with the County on or after January 1, 2008, the percentage of pay for employees entitled to Workers' Compensation shall be decreased from 80% to 75%. If Workers' Compensation becomes taxable, the County agrees to restore the original benefit level (100% of monthly salary) and the parties shall meet and confer with respect to funding the increased cost.

B. <u>Waiting Period.</u> There is a three (3) calendar day waiting period before Workers' Compensation benefits commence. If the injured worker loses anytime on the day of injury, that day counts as day one (1) of the waiting period. If the injured worker does not lose time on the date of injury, the waiting period will be the first three (3) calendar days the employee does not work because of the injury. The time the employee is scheduled to work during this waiting period will be charged to the employee's sick

leave and/or vacation accruals. In order to qualify for Workers' Compensation the employee must be under the care of a physician. Temporary compensation is payable on the first three (3) days of disability when the injury necessitates hospitalization, or when the disability exceeds fourteen (14) days.

C. Continuing Pay. A permanent employee shall receive the appropriate percentage as outlined above of regular monthly salary during any period of compensable temporary disability not to exceed one (1) year. Payment of continuing pay and/or temporary disability compensation is made in accordance with Part 2, Article 3 of the Workers' Compensation Laws of California. "Compensable temporary disability absence" for the purpose of this Section, is any absence due to work connected disability which qualifies for temporary disability compensation as set forth in Part 2, Article 3 of the Workers' Compensation Laws of California. When any disability becomes medically permanent and stationary and/or reaches maximum medical improvement, the salary provided by this Section shall terminate. No charge shall be made against sick leave or vacation for these salary payments. Sick leave and vacation rights shall not accrue for those periods during which continuing pay is received. Employees shall be entitled to a maximum of one (1) year of continuing pay benefits.

D. Termination of Continuing Pay. Continuing pay begins at the same time that temporary Workers' Compensation benefits commence and continues until either the member is declared medically permanent/stationary and/or reaches maximum medical improvement, or until one (1) year of continuing pay, whichever comes first provided the employee remains in an active employed status. Continuing pay is automatically terminated on the date an employee is separated from County service by resignation, retirement, layoff, or the employee is no longer employed by the County. In these instances, employees will be paid Workers' Compensation benefits as prescribed by Workers' Compensation laws. All continuing pay will be cleared through the County Administrator's Office, Risk Management Division. Whenever an employee who has been injured on the job and has returned to work is required by an attending physician to leave work for treatment during working hours the employee shall be allowed time off up to three (3) hours for such treatment without loss of pay or benefits, provided the employee notifies his/her supervisor of the appointment at least three (3) working days prior to the appointment or as soon as the employee becomes aware the appointment has been made. Said visits are to be scheduled contiguous to either the beginning or end of the scheduled work day whenever possible. This provision applies only to injuries/illnesses that have been accepted by the County as work related.

E. Extended Temporary Disability. If an injured employee remains eligible for temporary disability beyond one year, applicable salary will continue by integrating sick leave and/or vacation accruals with Workers' Compensation benefits (vacation charges to be approved by the department and the employee). If salary integration is no longer available,

Workers' Compensation benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.

F. Rehabilitation Integration. An injured employee who is eligible for Workers' Compensation rehabilitation temporary disability benefits and whose disability is medically permanent and stationary and/or reaches maximum medical improvement, will continue to receive salary by integrating sick leave and/or vacation accruals with Workers' Compensation rehabilitation temporary disability benefits until those accruals are exhausted. Thereafter, the rehabilitation temporary disability benefits will be paid directly to the employee.

G. Health Insurance. The County contribution to the employee's group insurance plan(s) continues during the continuing pay period and during integration of sick leave or vacation with Workers' Compensation benefits.

H. Method of Integration. An employee's sick leave and/or vacation charges shall be calculated as follows:

C = 8 [1 - (W÷S)]
C = Sick leave or vacation charge per day (in hours)
W = Statutory Workers' Compensation for a month
S = Monthly salary

For example:

W = $960 per month Workers' Compensation
S = $1667 per month salary
8 = 8 hours
C = Hours to be charged to Sick Leave
C = 8 [1 - ($960 ÷ $1,667)]
C = 8 [1 - (.5758)]
C = 8 (.4242)
C = 3.39
3 hours chargeable to sick leave
5 hours chargeable to Workers' Compensation

12.7 Long-Term Disability Insurance. Deputy Public Defenders will be covered by a long-term disability insurance policy identical with that currently covering employees in the Deputy District Attorney class series.

12.8 State Disability Insurance (SDI).

A. Applicability. This subsection 12.8, State Disability Insurance, applies only to Public Defender Investigators.

B. General Provisions. Contra Costa County participates in the State Disability Insurance (SDI) program, subject to the rules and procedures established by the State of California. The County augments the SDI program with its SDI Integration Program. Changes to the State Disability Insurance program could affect the County's SDI Integration Program.

Determination of SDI payments and eligibility to receive payments is at the sole discretion of the State of California. Employees eligible for SDI benefits are required to apply for SDI benefits and to have those benefits integrated with the use of their sick leave accruals on the following basis:

"Integration" means that employees are required to use their sick leave accruals to supplement the difference between the amount of the SDI payment and the employee's base monthly salary. Integration of sick leave with the SDI benefit is automatic and cannot be waived. Integration applies to all SDI benefits paid. For employees off work, on disability, and receiving SDI, the employee's County department will make appropriate integration adjustments, including retroactive adjustments, if necessary. Employees must inform their department of a disability in a timely manner in order for the department to make appropriate integration adjustments. SDI benefit payments will be sent directly to the employee by the State of California.

When there are insufficient sick leave accruals available to fully supplement the difference between the amount of the SDI payment and the employee's base monthly salary, accruals other than sick leave may be used to supplement the difference between the amount of the SDI payment and the employee's base monthly salary. These accruals may be used only to the extent that the total payment does not exceed the employee's base monthly salary.

C. Procedures. Employees with more than one and two tenths (1.2) hours of sick leave accruals at the beginning of the disability integration period must integrate their sick leave accrual usage with their SDI benefit to the maximum extent possible.

When employees have one and two tenths (1.2) hours or less of sick leave accruals at the beginning of the disability integration period, the Department will automatically use one tenth (1/10th) hours of sick leave per month for the duration of their SDI benefit.

When the SDI benefit is exhausted, integration terminates. The employee then may continue to use sick leave without integration and/or other accruals.

When sick leave accruals are totally exhausted, integration with the SDI benefit terminates.

Employees whose SDI claims are denied must present a copy of their claim denial to their Department. The Department will then authorize the use of unused sick leave and/or other accruals as appropriate.

D. Method of Integration. For purposes of integration with the SDI program, all full-time employees' schedules will be converted to eight (8) hour/five (5) day weekly work schedules.

The formula for full time employees' sick leave integration charges is as follows:

L = [S-D ÷ S] x 8
S = Employee Base Monthly Salary
H = Estimated Highest Quarter (3 mos) Earnings [H = S x 3]
W = Weekly SDI Benefit from State of California SDI Weekly Benefit Table
C = Calendar Days In Each Month
D = Estimated Monthly SDI Benefit [D=(W ÷ 7) x C]
L = Sick Leave Hours Charged Per Day

Permanent part-time employees, permanent-intermittent employees, and full-time employees who are working a light/limited duty reduced schedule, will have their sick leave integration adjusted accordingly.

E. Definition. "Base Monthly Salary", for purposes of the SDI integration program, is defined as the salary amount of the employee's step on the salary schedule of the employee's classification at the time of integration.

F. No Buy-Back. Employees will not be allowed to buy back sick leave hours used by the employee while on SDI.

12.9 Accrual During Leave Without Pay. No employee who has been granted a leave without pay or an unpaid military leave shall accrue any sick leave credits during the time of such leave nor shall an employee who is absent without pay accrue sick leave credits during the absence.

SECTION 13 - CATASTROPHIC LEAVE BANK

13.1 Program Design. The County Human Resources Department will operate a Catastrophic Leave Bank which is designed to assist any County employee who has exhausted all paid accruals due to a serious or catastrophic illness, injury, or condition of the employee or family member. The program establishes and maintains a Countywide bank wherein any employee who wishes to contribute may authorize that a portion of his/her accrued vacation or personal holiday credit be deducted from those account(s) and credited to the Catastrophic Leave Bank. Employees may donate hours either to a specific eligible employee or to the bank. Upon approval, credits from the Catastrophic Leave Bank may be transferred to a requesting employee's sick leave account so that employee may remain in paid status for a longer period, thus partially ameliorating the financial impact of the illness, injury, or condition. Catastrophic illness or injury is defined as a critical medical condition, a long-term major physical impairment or disability which manifests itself during employment.

13.2 Operation.

A. The plan will be administered under the direction of the Director of Human Resources. The Human Resources Department will be responsible for receiving and recording all donations of accruals and for initiating transfer of credits from the bank to the recipient's sick leave account.

Disbursement of accruals will be subject to the approval of a six (6) member committee composed of three (3) members appointed by the County Administrator and three (3) members appointed by the majority representative employee organizations. The committee shall meet as necessary to consider all requests for credits and shall make determinations as to the appropriateness of the request. The committee shall determine the amount of accruals to be awarded for employees whose donations are nonspecific. Consideration of all requests by the committee will be on an anonymous requester basis.

B. Hours transferred from the Catastrophic Leave Bank to a recipient will be in the form of sick leave accruals and shall be treated as regular sick leave accruals. To receive credits under this plan, an employee must have permanent status, must have exhausted all time off accruals to a level below eight (8) hours total, have applied for a medical leave of absence and have medical verification of need. Donations are irrevocable unless the donation to the eligible employee is denied. Donations may be made in hourly blocks with a minimum donation of not less than four (4) hours per donation from balances in the vacation, holiday, floating holiday, compensatory time, or holiday compensatory time accounts. Employees who elect to donate to a specific individual shall have seventy-five percent (75%) of their donation credited to the individual and twenty-five percent (25%) credited to the Catastrophic Leave Bank. Time donated will be converted to a dollar value and the dollar value will be converted back to sick leave accruals at the recipient's base hourly rate when disbursed. Credits will not be on a straight hour-for-hour basis. All computations will be on a standard 173.33 basis, except that employees on other than a forty (40) hour week will have hours prorated according to their status.

C. Any recipient will be limited to a total of one thousand forty (1040) hours or its equivalent per catastrophic event; each donor will be limited to one hundred twenty (120) hours per calendar year.

D. No element of this plan is grievable. All appeals from either a donor or recipient will be resolved on a final basis by the Director of Human Resources. No employee will have any entitlement to catastrophic leave benefits. The award of Catastrophic Leave will be at the sole discretion of the committee, both as to amounts of benefits awarded and as to persons awarded benefits. Benefits may be denied, or awarded for less than six (6) months. The committee will be entitled to limit benefits in accordance with available contributions and to choose from among applicants, on an anonymous basis, those who will receive benefits, except for hours donated to a specific employee. In the event a donation is made to a specific employee and the committee determines the employee does not meet the Catastrophic Leave Bank criteria, the donating employee may authorize the hours to be donated to the bank or returned to the donor’s account. The donating employee will have fourteen (14) calendar days from notification to submit his/her decision regarding the status of their donation, or the hours will be irrevocably transferred to the Catastrophic

Leave Bank. Any unused hours transferred to a recipient will be returned to the Catastrophic Leave Bank.

SECTION 14 - LEAVE OF ABSENCE

14.1 **Leave Without Pay.** Any employee who has permanent status may be granted a leave of absence without pay upon written request, approved by the appointing authority; provided, however, that leaves for pregnancy, Pregnancy Disability Leave (PDL), serious health conditions, Family and Medical Leave Act (FMLA), and California Family Rights Act (CFRA) leave shall be granted in accordance with applicable state and federal law.

14.2 **General Administration - Leaves of Absence.**

A. Requests for leave without pay shall be made in writing and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return. Leave without pay may be granted for any of the following reasons:

1. Employee's own illness, disability~~.~~, or serious health condition;

2. Pregnancy~~.~~ or preganancy disability;

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3. To bond with the employee's newborn or with a child who is placed in an employee's family for adoption or foster care;

4. Family care to care for a spouse, child, parent, or domestic partner who has a serious health condition;

5 To take a course of study which will increase the employee's usefulness on return to the position~~.~~;

6 For other reasons or circumstance acceptable to the appointing authority.

B. An employee must request a leave of absence without pay at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the Public Defender within five (5) days of learning of the event by which the need for the leave of absence arises.

C. A leave without pay may be for a period not to exceed one (1) year, provided the appointing authority may extend such leave for additional periods. The procedure in granting extensions shall be the same as that in granting the original leave, provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.

D. Whenever an employee who has been granted a leave without any pay desires to return before the expiration of such leave, the employee shall

submit a request to the appointing authority in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the appointing authority. The Human Resources Department shall be notified promptly of such return.

E. Except in the case of leave of absence due to family care, pregnancy, pregnancy disability, illness, or serious health condition, the decision of the appointing authority on granting or denying a leave or early return from leave shall be subject to appeal to the Director of Human Resources and not subject to appeal through the grievance procedure set forth in this MOU.

14.3 **Furlough Days Without Pay (Voluntary Time Off or "V.T.O.").** Subject to the prior written approval of the appointing authority, employees may elect to take furlough days or hours without pay (pre-authorized absence without pay), up to a maximum of fifteen (15) calendar days for any one period. Longer pre-authorized absences without pay are considered leaves of absence without pay. Employees who take furlough time shall have their compensation for the portion of the month worked computed in accord with subsection 5.6 (Compensation for Portion of Month) of this MOU. Full-time and part-time employees who take furlough time shall have their vacation, sick leave, floating holiday, and any other payroll computed accruals computed as though they had worked the furlough time. When computing vacation, sick leave, floating holiday and other accrual credits for employees taking furlough time, this provision shall supersede subsections 10.1 (Holidays Observed), 11.1 (Vacation Allowance), 11.4 (Accrual During Leave Without Pay), 12.2 (Credits to and Charges Against Sick Leave), and 12.7 (Accrual During Leave Without Pay) of this MOU regarding the computation of vacation, sick leave, floating holiday, and other accrual credits as regards furlough time only. For payroll purposes, furlough time (absence without pay with prior authorization of the appointing authority) shall be reported separately from other absences without pay to the Auditor-Controller. The existing V.T.O. program shall be continued for the life of the contract.

14.4 **Military Leave.** Any employee who is ordered to serve as a member of the State Militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard or any division thereof shall be granted a military leave for the period of such service, plus ninety (90) days. Additionally, any employee who volunteers for service during a mobilization under Executive Order of the President or Congress of the United States and/or the State Governor in time of emergency shall be granted a leave of absence in accordance with applicable state or federal laws. Upon the termination of such service or upon honorable discharge, the employee shall be entitled to return to his/her position in the classified service provided such still exists and the employee is otherwise qualified, without any loss of standing of any kind whatsoever.

An employee who has been granted a military leave shall not, because of such absence, suffer any loss of vacation, holiday, or sick leave privileges which may be accrued at the time of such leave, nor shall the employee be prejudiced thereby with reference to salary adjustments or continuation of employment. For purposes of determining eligibility for salary adjustments or seniority in case of layoff or promotional examination, time on military leave shall be considered as time in County service.

Any employee who has been granted a military leave, may upon return, be required to furnish such evidence of performance of military service or of honorable discharge as the Director of Human Resources may deem necessary.

14.5 Family Care and Medical Leave (FMLA/CFRA). Upon request to the Public Defender, any eligible employee shall be entitled to twelve (12) weeks leave (less if so requested by the employee) in any twelve (12) month period for any of the reasons set forth in the federal Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA). The twelve (12) month period in which the twelve week leave entitlement occurs is a "rolling" twelve (12) month period measured backward from the date an employee uses any FMLA/CFRA leave. Under the "rolling" twelve (12) month period, each time an employee takes FMLA/CFRA leave, the remaining leave entitlement would be any balance of the twelve (12) weeks which has not been used during the immediately preceding twelve (12) months. FMLA/CFRA leave eligibility and use will be administered in accordance with the FMLA and CFRA and their implementing regulations, as revised from time to time.

14.6 Pregnancy Disability Leave/How Leave Is Counted.
Insofar as pregnancy disability leave is used under subsection 12.3, paragraph B, sub-paragraph 4 (Sick Leave Utilization for Pregnancy Disability), that time will not be considered a part of the twelve (12) week family care leave period.

14.7 Group Health Plan Coverage. Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the County contribution by maintaining their employment in pay status as described in subsection 14.8 (Leave Without Pay – Use of Accruals). During the twelve (12) weeks of an approved family medical leave under subsection 14.5 (Family Care And Medical Leave) above, the County will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under subsection 14.8 (Leave Without Pay – Use of Accruals). In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the County directly.

14.8 Leave Without Pay - Use of Accruals.

A. All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under subsection 12.3 - Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and accruals may not be used, except when required by Long Term Disability ("LTD") Benefit Coordination (for employees in the Public Defender series) or by Sick Leave Integration or as provided in the sections below.

B. California Family Rights Act (CFRA) and Federal Medical Leave Act (FMLA). During the twelve (12) weeks of an approved family medical leave (FMLA/CFRA), if a portion of that leave will be on a leave of absence without pay, the employee will be required to use at least 0.1 hour of sick leave (if so entitled under subsection 12.3 - Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, or other accruals or entitlements if such are available, although use of additional accruals is permitted under subsection 14.8, paragraph A (All Leaves of Absence) above.

C. Leave of Absence/Long Term Disability (LTD) Benefit Coordination. An eligible employee who files an LTD claim and concurrently takes a leave of absence without pay will be required to use accruals during the LTD waiting period. After the LTD waiting period, an eligible employee may choose to maintain further pay status only as allowed under subsection 14.8 paragraph A (All Leaves of Absence) herein. However, LTD benefit payment will be reduced by any accruals used.

D. Baby/Child Bonding. To bond with the employee's newborn or with a child who is placed in an employee's family for adoption or foster care, an employee eligible for baby/child bonding leave pursuant to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) may use sick leave accruals for such baby/child bonding.

E. Sick leave accruals may not be used during any leave of absence, except as allowed under subsection 12.3 (Policies Governing the Use of Paid Sick leave) unless otherwise stated in Section 14.8 - Leave Without Pay – Use of Accruals.

14.9 Leave of Absence Replacement and Reinstatement. Any permanent employee who requests reinstatement to the classification held by the employee in the same department at the time the employee was granted a leave of absence, shall be reinstated to a position in that classification and department and then only on the basis of seniority. In case of severance from service due to the reinstatement of a permanent employee, the provisions of Section 9 (Workforce Reduction/Layoff/Reassignment) shall apply.

14.10 Reinstatement From Family Care/Medical Leave. In the case of Family and Medical Leave Act (FMLA) or California Family Rights Act (CFRA), an employee on a 5/40 schedule shall be reinstated to the same or comparable position if the return to work is after no more than sixty (60) work days of leave from the initial date of a continuous leave, including use of accruals, or within the equivalent on an alternate work schedule. A full-time employee taking an intermittent or reduced work schedule leave shall be reinstated to the same or comparable position if the return to work on a full schedule is after no more than four hundred and eighty (480) hours, including use of accruals, of intermittent or reduced schedule leave. At the time the original leave is approved, the appointing authority shall notify the employee in writing of the final date to return to work, or the maximum number of hours of leave, in order to guarantee reinstatement to the same or comparable position. An employee on a schedule other than 5/40 shall have the time frame for reinstatement to the same or comparable

position adjusted on a pro rata basis. Calculations of work days or hours are determined on the day leave commenced provided no additional leave was taken in the previous twelve (12) months.

14.11 **Salary Review While on Leave of Absence.** The salary of an employee who is on leave of absence from a County position on any anniversary date and who has not been absent from the position on leave without pay more than six (6) months during the preceding year, shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

14.12 **Unauthorized Absence.** An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

SECTION 15 - JURY DUTY AND WITNESS DUTY

15.1 Jury Duty.

A. When called for jury duty, County employees, like other citizens, are expected to discharge their jury duty responsibilities.

B. Employees shall advise their department as soon as possible if scheduled to appear for jury duty.

C. If summoned for jury duty in a Superior or Federal Court, or a Coroners jury, employees may remain in their regular County pay status, or they may take paid leave (vacation, floating holiday, etc.) or leave without pay and retain all fees and expenses paid to them.

D. When an employee is summoned for jury duty selection or is selected as a juror in a Superior or Federal Court, employees may remain in a regular pay status if they waive all fees (other than mileage), regardless of shift assignment and the following shall apply:

1. If an employee elects to remain in a regular pay status and waive or surrender all fees (other than mileage), the employee shall obtain from the Clerk or Jury Commissioner a certificate indicating the days attended and noting that fees other than mileage are waived or surrendered. The employee shall furnish the certificate to his department where it will be retained as a department record. An "Absence/Overtime Record" (“AOR”) is not required.

2. An employee who elects to retain all fees must take leave (vacation, floating holiday, etc.) or leave without pay. A court certificate is not required but an Absence/Overtime Record (“AOR”) must be submitted to the department payroll clerk.

E. Employees are not permitted to engage in any employment regardless of shift assignment or occupation before or after daily jury service that would affect their ability to properly serve as jurors.

F. An employee on short notice standby to report to court, whose job duties make short notice response impossible or impractical, shall be given alternate work assignments for those days to enable them to respond to the court on short notice.

G. When an employee is required to serve on jury duty, the County will adjust that employee's work schedule to coincide with a Monday to Friday schedule for the remainder of their service, unless the employee requests otherwise.

15.2 **Witness Duty.** Employees called upon as a witness or an expert witness in a case arising in the course of their work or the work of another department may remain in their regular pay status and turn over to the County all fees and expenses paid to them other than mileage allowance or they may take vacation leave or leave without pay and retain all fees and expenses.

Employees called to serve as witnesses in private cases or personal matters (e.g., accident suits and family relations) shall take vacation leave or leave without pay and retain all witness fees paid to them.

Retention or waiver of fees shall be governed by the same provisions as apply to jury duty as set forth in subsection 15.1 (Jury Duty) of this MOU.

Employees shall advise their department as soon as possible if scheduled to appear for witness duty.

SECTION 16 - MEDICAL, DENTAL & LIFE INSURANCE

16.1 Health Plan Coverage.

The County will provide the medical and dental coverage for permanent employees regularly scheduled to work twenty (20) or more hours per week and for their eligible family members, expressed in one of the Medical Plan contracts and one of the Dental Plan contracts between the County and the following providers:

1. Contra Costa Health Plans (CCHP)
2. Kaiser Permanente Health Plan
3. Health Net
4. Delta Dental

Medical Plans:
All employees will have access to the following medical plans:

1. CCHP Plan A & Plan B

2. Kaiser Permanente Plan A & Plan B
3. Health Net HMO Plan A & Plan B
4. Health Net PPO Plan A
5. Kaiser High Deductible Health Plan

Health Net PPO Plan B was eliminated for all employees beginning January 1, 2018.

In the event that one of the medical plans listed above meets the criteria for a high cost employer-sponsored health plan that may be subject to an excise penalty (a.k.a. Cadillac Tax) under the federal Patient Protection and Affordable Care Act ("ACA") (42 U.S.C. § 18081), the Joint Labor/Management Benefit Committee will meet to consider plan design and other changes in an effort to mitigate the negative impact of the excise penalty. If the Committee is unable to make sufficient plan changes and the plan(s) continue to meet the criteria for high cost employer-sponsored health plan(s), such plan(s) will be eliminated for all employees.

16.2 **Monthly Premium Subsidy**:

A. The monthly premium subsidy in effect on January 1, 2015, for each medical and/or dental plan, is a set dollar amount and is not a percentage of the premium charged by the plan. The County will pay the following monthly premium subsidy:

Health & Dental Plans	Employee	Employee +1 Dependent	Employee +2 or More Dependents
Contra Costa Health Plans (CCHP), Plan A	$509.92	$1,214.90	$1,214.90
Contra Costa Health Plans (CCHP), Plan B	$528.50	$1,255.79	$1,255.79
Kaiser Permanente Health Plans	$478.91	$1,115.84	$1,115.84
Health Net HMO Plans	$627.79	$1,540.02	$1,540.02
Health Net PPO Plans	$604.60	$1,436.25	$1,436.25
Kaiser High Deductible Health Plan	$478.91	$1,115.84	$1,115.84
Delta Dental PPO with CCHP A or B	$41.17	$93.00	$93.00
Delta Dental PPO with Kaiser or Health Net	$34.02	$76.77	$76.77
Delta Dental PPO without a Health Plan	$43.35	$97.81	$97.81
Delta Care HMO with CCHP A or B	$25.41	$54.91	$54.91
Delta Care HMO with Kaiser or Health Net	$21.31	$46.05	$46.05
Delta Care HMO without a Health Plan	$27.31	$59.03	$59.03

B. If the County contracts with a medical or dental plan that is not listed above the County will determine the monthly dollar premium subsidy that it will pay to that medical or dental plan provider for employees and their eligible family members.

C. In the event that the County premium subsidy amounts are greater than one hundred percent (100%) of the applicable premium of any medical or dental plan, for any plan year, the County's contribution will not exceed one hundred percent (100%) of the applicable plan premium.

D. **Joint Labor/Management Benefit Committee.**

1. The Unions and County agree to create a Joint Labor/Management Benefit Committee ("Benefit Committee"). The Benefit Committee will be composed of two (2) representatives (not including Union/Association staff) from each Union/Association in the County and Management representatives to be determined. The Benefit Committee replaces the existing Healthcare Oversight Committee. The existing Healthcare Coalition will remain, but may meet quarterly.

2. The Benefit Committee will convene in order to 1) select a replacement medical or dental plan in the event that a plan listed in this Section 16 is no longer available; 2) design a wellness program; 3) discuss future medical, dental, or vision plan design; or 4) assess the future impact of any excise tax pursuant to the federal Patient Protection and Affordable Care Act ("ACA") (42 U.S.C. § 18081) on any high cost medical plans offered by the County. If the Benefit Committee is selecting a replacement medical or dental plan for a plan that is no longer available, the selection must be unanimously agreed upon by the Union/Association representatives on the Committee and any such selected plan will be available to employees represented by the Unions and incorporated into their respective MOUs after ratification by each Union/Association.

3. Immediately upon adoption of an overall contract extension package agreement, the County and the Coalition Union/Association Benefit Committee representatives will work together as equal partners to 1) identify a new medical plan carrier to replace Health Net, and 2) explore the costs of CalPERS Health and other plan options including but not limited to the SEIU Taft-Hartley Trust plans as possible future replacements with the goal of beginning with the 2020 plan year. Any replacement plans selected must not increase the County's retiree health costs.

4. The new medical plan carrier that will replace Health Net must include an HMO plan and one plan providing out-of-network provider coverage.

5. Once all nine (9) Coalition Union/Association representatives on the Benefit Committee and the County have agreed on the new medical plan carrier to replace Health Net, the new medical plan will replace Health Net for all Coalition Unions/Associations the following January 1.

6. Each year, County will coordinate a team composed of the County, the County's benefits consultant, and Union/Association Benefit Committee representatives, to work as equal partners to provide

input for the annual negotiations with the medical plan providers over the plan premiums for the next plan year. The team will have authority to make information requests, request and observe presentations by the County's healthcare consultant regarding premium rates and ask questions, and help guide the strategy of the County in the annual negotiations.

7. County and Unions/Associations of the Coalition will jointly work to educate employees regarding the cost benefits of lower cost plans, including the Kaiser High Deductible Health Plan.

8. County and Union/Association Benefit Committee representatives will jointly work as equal partners to seek plan design changes across all plans that would reduce costs and improve quality of care.

16.3 Retirement Coverage:

A. Upon Retirement:

1. Upon retirement and for the term of this agreement, eligible employees and their eligible family members may remain in their County health/dental plan, but without County-paid life insurance coverage, if immediately before their proposed retirement the employees and dependents are either active subscribers to one of the County contracted health/dental plans or if while on authorized leave of absence without pay, they have retained continuous coverage during the leave period. The County will pay the health/dental plan monthly premium subsidies for eligible retirees and their eligible family members set forth in subsection 16.2 - Monthly Premium Subsidy.

2. Any person who becomes age 65 on or after March 1, 2011, and who is eligible for Medicare must immediately enroll in Medicare Parts A and B.

3. For employees hired on or after March 1, 2011, and their eligible family members, no monthly premium subsidy will be paid by the County for any health or dental plan after they separate from County employment. However, any such eligible employee who retires under the Contra Costa County Employees' Retirement Association ("CCCERA") may retain continuous coverage of a county health and/or dental plan provided that (i) he or she begins to receive a monthly retirement allowance from CCCERA within one hundred twenty (120) days of separation from County employment and (ii) he or she pays the full premium cost under the health and/or dental plan without any County premium subsidy.

B. Employees Who File For Deferred Retirement. Employees, who resign and file for a deferred retirement and their eligible family members, may continue in their County group health and dental plan under the following conditions and limitations.

1. Health and dental coverage during the deferred retirement period is totally at the expense of the employee, without any County contributions.

2. Life insurance coverage is not included.

3. To continue health and dental coverage, the employee must:

   a. be qualified for a deferred retirement under the 1937 Retirement Act provisions;

   b. be an active member of a County group health and/or dental plan at the time of filing their deferred retirement application and elect to continue plan benefits;

   c. be eligible for a monthly allowance from the Retirement System and direct receipt of a monthly allowance within twenty-four (24) months of application for deferred retirement; and

   d. file an election to defer retirement and to continue health benefits hereunder with the County Benefits Division within thirty (30) days before separation from County service.

4. Deferred retirees who elect continued health benefits hereunder and their eligible family members may maintain continuous membership in their County health and/or dental plan group during the period of deferred retirement by paying the full premium for health and dental coverage on or before the 10th of each month, to the Contra Costa County Human Resources Department-Employee Benefits Division. When the deferred retirees begin to receive retirement benefits, they will qualify for the same health and/or dental plan coverage pursuant to Subsection 16.3 (Retirement Coverage) paragraph A above, as similarly situated retirees who did not defer retirement.

5. Deferred retirees may elect retiree health benefits hereunder without electing to maintain participation in their County health and/or dental plan during their deferred retirement period. When the deferred retirees begin to receive retirement benefits, they will qualify for the same health and/or dental coverage pursuant to Subsection 16.3 (Retirement Coverage) paragraph A as similarly situated retirees who did not defer retirement, provided reinstatement to a County group health and/or dental plan will only

occur following a three (3) full calendar month waiting period after the month in which their retirement allowance commences.

6. Employees who elect deferred retirement will not be eligible in any event for County health and/or dental plan subvention unless the member draws a monthly retirement allowance within twenty-four (24) months after separation from County service.

7. Deferred retirees and their eligible family members are required to meet the same eligibility provisions for health/dental coverage as similarly situated retirees who did not defer retirement.

C. Employees Hired After December 31, 2006 - Eligibility for Retiree Health Coverage: All employees hired after December 31, 2006 are eligible for retiree health/dental coverage pursuant to subsection 16.3 (Retirement Coverage) paragraphs (A) and (B), above, upon completion of fifteen (15) years of service as an employee of Contra Costa County. For purposes of retiree health eligibility, one (1) year of service is defined as one thousand (1,000) hours worked within one anniversary year. The existing method of crediting service while an employee is on an approved leave of absence will continue for the duration of this Agreement.

D. Subject to the provisions of subsection 16.3 (Retirement Coverage) paragraphs A, B, and C and upon retirement and for the term of this agreement, the following employees (and their eligible family members) are eligible to receive a monthly premium subsidy for health and dental plans or are eligible to retain continuous coverage of such plans: each employee who retires from a position or classification that was represented by this bargaining unit at the time of his or her retirement.

E. For purposes of this subsection 16.3 (Retirement Coverage) only, 'eligible family members' does not include Survivors of employees or retirees.

16.4 Health Plan Coverages and Provisions. The following provision is applicable regarding County Health and Dental Plan participation:

A. Coverage Upon Separation: An employee who separates from County employment is covered by his/her County health and/or dental plan through the last day of the month in which he/she separates. Employees who separate from County employment may continue group health and/or dental plan coverage to the extent provided by the COBRA laws and regulations.

16.5 Family Member Eligibility Criteria: The following persons may be enrolled as the eligible Family Members of a medical or dental plan Subscriber:

A. Health Insurance

1. Eligible Dependents:

a. Employee's legal spouse
b. Employee's qualified domestic partner

c. Employee's child to age 26
d. Employee's Disabled Child who is:
(1) over age 26,
i. Unmarried; and,
ii. Incapable of sustaining employment due to a physical or mental disability that existed prior to the child's attainment of age 19.

2. "Employee's child" includes natural child, step-child, child of a qualified domestic partner, adopted child and a child specified in a Qualified Medical Child Support Order (QMCSO) or similar court order.

B. Dental Insurance

1. Eligible Dependents all dental plans:

a. Employee's legal spouse
b. Employee's qualified domestic partner
c. Employee's disabled child who is:
(1) Over age 19,
i. Unmarried; and,
ii. Incapable of sustaining employment due to a physical or mental disability that existed prior to the child's attainment of age 19.

2. Delta Dental PPO Only:
Employee's unmarried child who is:
(1) Under age 19; or
(2) Age 19, or above, but under age 24; and
i. Resides with the Employee for more than 50% of the year excluding time living at school; and,
ii. Receives at least 50% of support from Employee; and,
iii. Is enrolled and attends school on a full-time basis, as defined by the school.

3. Delta Care HMO Only – Employee's Child to age 26.

4. "Employee's child" includes natural child, child of a qualified domestic partner, step-child, adopted child and a child specified in a Qualified Medical Child Support Order (QMCSO) or similar court order.

16.6 Dual Coverage.

A. Each employee and retiree may be covered by only a single County health (or dental) plan, including a CalPERS plan. For example, a County employee may be covered under a single County health and/or dental plan as either the primary insured or the dependent of another County

employee or retiree, but not as both the primary insured and the dependent of another County employee or retiree.

B. All dependents, as defined in Section 16.5, (Family Member Eligibility Criteria), may be covered by the health and/or dental plan of only one spouse or one domestic partner. For example, when both parents are County employees, all of their eligible children may be covered as dependents of either parent, but not both.

C. For purposes of this subsection 16.6 (Dual Coverage) only, "County" includes the County of Contra Costa and all special districts governed by the Board of Supervisors, including, but not limited to, the Contra Costa County Fire Protection District.

16.7 Medical Plan Cost-Sharing for Active Employees on and after January 1, 2018.

A. For active employees for the plan year that begins on January 1, 2018, the County will adjust the subsidy amounts in subsection 16.2.A and will pay only the total monthly premium subsidy for medical plans stated below:

Medical Plans	Employee	Employee +1 Dependent	Employee +2 or More Dependents
Contra Costa Health Plans (CCHP), Plan A	$574.45	$1,137.59	$1,778.56
Kaiser Permanente Health Plan B	$463.73	$919.05	$1,463.45
Kaiser Permanente High Deductible Health Plan	$461.96	$946.56	$1,432.15
Health Net HMO Plan B	$767.68	$1,491.54	$2,377.76

B. Medical Plan Cost-Sharing for Active Employees for the 2019 Plan Year. For active employees for the plan year that begins on January 1, 2019, the County will pay the monthly premium subsidy for medical plans stated below:

Employee Medical Plans	**Monthly Premium**	**County Monthly Premium Subsidy**	**Employee Monthly Premium Cost**
Contra Costa Health Plans (CCHP), Plan A	$812.06	$641.65	$170.41
Contra Costa Health Plans (CCHP), Plan B	$900.19	$672.58	$227.61
Kaiser Permanente Health Plan A	$877.30	$600.00	$277.30
Kaiser Permanente Health Plan B	$697.28	$600.00	$97.28
Health Net HMO Plan A	$1,677.56	$986.18	$691.38
Health Net HMO Plan B	$1,166.55	$882.34	$284.21
Health Net PPO Plan A	$2,340.40	$1,226.79	$1,113.61
Kaiser High Deductible Health Plan	$559.68	$559.68	$0.00

Employee +1 Dependent Medical Plans	Monthly Premium	County Monthly Premium Subsidy	Employee Monthly Premium Cost
Contra Costa Health Plans (CCHP), Plan A	$1,624.10	$1,271.99	$352.11
Contra Costa Health Plans (CCHP), Plan B	$1,800.37	$1,314.95	$485.42
Kaiser Permanente Health Plan A	$1,754.60	$1,200.00	$554.60
Kaiser Permanente Health Plan B	$1,394.56	$1,200.00	$194.56
Health Net HMO Plan A	$3,355.12	$1,765.02	$1,590.10
Health Net HMO Plan B	$2,333.10	$1,720.86	$612.24
Health Net PPO Plan A	$4,680.80	$2,109.72	$2,571.08
Kaiser High Deductible Health Plan	$1,119.36	$1,119.36	$0.00

Employee +2 Dependent Medical Plans	Monthly Premium	County Monthly Premium Subsidy	Employee Monthly Premium Cost
Contra Costa Health Plans (CCHP), Plan A	$2,436.18	$1,980.17	$456.01
Contra Costa Health Plans (CCHP), Plan B	$2,700.56	$2,106.48	$594.08
Kaiser Permanente Health Plan A	$2,631.90	$1,825.00	$806.90
Kaiser Permanente Health Plan B	$2,091.84	$1,825.00	$266.84
Health Net HMO Plan A	$5,032.68	$3,230.62	$1,802.06
Health Net HMO Plan B	$3,499.65	$2,721.74	$777.91
Health Net PPO Plan A	$7,021.20	$4,251.97	$2,769.23
Kaiser High Deductible Health Plan	$1,679.04	$1,679.04	$0.00

C. Medical Plan Cost-Sharing for Active Employees on and after January 1, 2020.

1. For active employees for the plan year that begins on January 1, 2020, the County will move to a percentage-based cost sharing approach for medical care premium subsidies. The County will pay seventy-five percent (75%) of the total medical plan premium for the Employee and Employee +1 Dependent tiers of the second lowest priced non-deductible HMO plan. The County will pay 76.5% of the total medical plan premium for the Employee +2 or more Dependents tier of the second lowest priced non-deductible HMO plan. These annual calculated dollar amounts will be applied to all plans and tiers as described.

2. For active employees for the plan year that begins on January 1, 2021, the County will pay seventy-eight and a half percent (78.5%) of the total medical plan premium for each tier of the second lowest priced non-deductible HMO plan. This annual calculated amount will be applied to all plans and tiers, except Kaiser Permanente Health Plan B.

3. For active employees for the plan year that begins on January 1, 2022, and each year thereafter, the County will pay eighty percent (80%) of the total medical plan premium for each tier of the second lowest priced non-deductible HMO plan. This annual calculated dollar amount will be applied to all plans and tiers, except Kaiser Permanente Health Plan B.

4. For active employees for the plan year that begins on January 1, 2021, and each year thereafter, for the Kaiser Permanente Health Plan B, employees will pay at least the following share of the total medical plan premium:

Kaiser Permanente Health Plan B	**Employee Monthly Premium Cost**
Employee	$20.00
Employee +1 Dependent	$40.00
Employee + 2 or More Dependents	$60.00

5. In the event of a reduction in the premium for the second lowest priced non-deductible HMO plan, the County will pay the premium subsidy for medical plans that the County paid in the previous plan year.

D. Beginning 2022, the County will review technological advancements in the area of benefits administration and consider asking any eligible employee who waives County health insurance to provide proof of other health insurance coverage.

16.8 **Life Insurance Benefits.** For employees who are enrolled in the County's program of medical or dental coverage as either the primary or the dependent, term life insurance in the amount of ten thousand dollars ($10,000) will be provided by the County. For Deputy Public Defender Attorneys, additional Group Term Life Insurance in the amount of forty-five thousand dollar ($45,000) will be provided by the County.

16.9 **Supplemental Life Insurance.** In addition to the life insurance benefits provided by this agreement, employees may subscribe voluntarily and at their own expense for supplemental life insurance. Employees may subscribe for an amount not to exceed five hundred thousand dollars ($500,000), of which one hundred thousand ($100,000) is a guaranteed issue, provided the election is made within the required enrollment periods.

16.10 **Health Care Spending Account.** After six (6) months of permanent employment, full and part-time (20/40 or greater) employees may elect to participate in a Health Care Spending Account (HCSA) Program designated to qualify for tax savings under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a predetermined amount of money from their pay, not to exceed the maximum amount authorized by federal law, per calendar year, of before tax dollars, for health care expenses not reimbursed by any other health benefit plans. HCSA dollars may be expended on any eligible medical

expenses allowed by Internal Revenue Code Section 125. Any unused balance is forfeited and cannot be recovered by the employee.

16.11 **PERS Long-Term Care.** The County will deduct and remit monthly premiums to the PERS Long-Term Care Administrator for employees who are eligible and voluntarily elect to purchase long-term care at their personal expense through the PERS Long-Term Care Program.

16.12 **Dependent Care Assistance Program.** The County offers the option of enrolling in a Dependent Care Assistance Program (DCAP) designed to qualify for tax savings under Section 129 of the Internal Revenue Code, but such savings are not guaranteed. The program allows employees to set aside a predetermined amount of annual salary not to exceed the lesser of either five thousand dollars ($5,000) or the maximum amount authorized by federal law, of annual salary (before taxes) per calendar year, of before-tax dollars to pay for eligible dependent care (child and elder care) expenses. Any unused balance is forfeited and cannot be recovered by the employee.

16.13 **Premium Conversion Plan.** The County offers the Premium Conversion Plan (PCP) designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but tax savings are not guaranteed. The program allows employees to use pre-tax dollars to pay health and dental premiums.

16.14 **Prevailing Section.** To the extent that any provision of this Section 16 (Medical, Dental & Life Insurance) is inconsistent with any provision of any other County enactment or policy, including but not limited to Administrative Bulletins, the Salary Regulations, the Personnel Management Regulations, or any other agreement or order of the Board of Supervisors, the provision(s) of this Section 16 (Medical, Dental & Life Insurance) will prevail.

16.15 **Rate Information.** The County Benefits Division will make health and dental plan rate information available upon request to employees and departments. In addition, the County Benefits Division will publish and distribute to employees and departments information about rate changes as they occur during the year.

16.16 **Partial Month.** The County's contribution to the health plan premium is payable for any month in which the employee is paid. If an employee is not paid enough compensation in a month to pay the employee share of the premium, the employee must make up the difference by remitting the amount delinquent to the Human Resources Department-Employee Benefits Division. The responsibility for this payment rests with the employee. If payment is not made, the employee shall be dropped from the health plan.

16.17 **Coverage During Absences.** An employee shall be allowed to maintain his/her health plan coverage at the County group rate for twelve (12) months if the employee is on an approved leave of absence and has exhausted all available accruals provided that the employee shall pay the entire premium (i.e. both employer and employee share) for the health plan during said leave. Said payment shall be made by the employee at a time and place specified by the County. Late payment shall result in cancellation of health plan coverage.

An employee on leave in excess of twelve (12) months may continue group coverage subject to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) provided the employee pays the entire cost of coverage, plus any administrative fees, for the option selected. The entire cost of coverage shall be paid at a place and time specified by the County. Late payment may result in cancellation of health plan coverage with no reinstatement allowed.

16.18 **Child Care.** The County will continue to support the concept of non-profit child care facilities similar to the "Kid's at Work" program established in the Public Works Department.

16.19 **Health Benefit Coverage for Employees Not Otherwise Covered**. To access County health plans, an employee represented by the Association who is not otherwise eligible for health coverage by the County, must be eligible to receive an offer of coverage from the County under the federal Patient Protection and Affordable Care Act ("ACA") (42 U.S.C. § 18081). Employees eligible to receive an offer of coverage (and qualified dependents), will be offered access to County health insurance plans. Employees will be responsible for the full premium cost of coverage. This provision is not subject to the grievance process.

16.20 **Health Savings Account with High Deductible Health Plan**

A. Active employees who are enrolled in the Kaiser Permanente High Deductible Health Plan may select a Health Savings Account ("HSA") offered through Kaiser Permanente under the following conditions and subject to any other laws, regulations or rules governing HSAs:

1. Only active employees who are enrolled in the Kaiser High Deductible Health Plan may elect to initially enroll in the HSA. The HSA is not available to permanent-intermittent or temporary employees.

2. Employees may only contribute up to the maximum annual contribution rate for HSAs as set forth in the United States Internal Revenue Code.

3. Funds contributed to the HSA are invested as directed by the employee. The County does not provide any recommendations or advice on investment or use of HSA funds.

4. Employees are responsible for paying any HSA account management fees charged by the HSA administrator.

5. The County does not manage or administer the HSAs.

B. For the 2019 Plan Year, the County will make a one-time contribution of five hundred dollars ($500) into the HSA for active employees who are enrolled in the Kaiser Permanente High Deductible Health Plan for the 2019 plan year and who have an HSA. The contribution will be made with the February 10, 2019 pay.

C. For the 2020 Plan Year and each year thereafter, the County will contribute six hundred and twenty-five dollars ($625) annually into the HSA for active employees who are enrolled in the Kaiser Permanente High Deductible Health Plan and have an HSA. The contribution will be made with the February 10 pay for the plan year.

16.21 **Voluntary Vision Plan.** The County will offer active employees the option to enroll in a voluntary vision plan during open enrollment. Employees will pay the full premium cost of the plan. The County will contract for a voluntary vision plan with no co-pays. The vision plan is not available to permanent-intermittent or temporary employees.

SECTION 17 - PROBATIONARY PERIOD

17.1 **Duration.** All appointments from officially promulgated employment lists for original entrance and promotion shall be subject to a probationary period. The probationary period shall be nine (9) months for original entrance appointments and six (6) months for promotional appointments, except that the probationary period for Deputy Public Defenders shall be six (6) months for original entrance and promotional appointments. Notwithstanding the other provisions of this section, the probation period for all appointments to the Deputy Public Defender Fixed-Term classification will be twelve (12) months.

17.2 **Revised Probationary Period.** When the probationary period for a class is changed, only new appointees to positions in the classification shall be subject to the revised probationary period.

17.3 **Criteria.** The probationary period shall date from the time of appointment to a permanent position after certification from an eligible list. It shall not include time served under provisional appointment or under appointment to limited term positions or any period of continuous leave of absence without pay or period of work connected disability exceeding fifteen (15) calendar days.

17.4 **Rejection During Probation/Appeal.**

A. An employee who is rejected during the probation period and restored to the eligible list shall begin a new probationary period if subsequently certified and appointed.

B. Notwithstanding any other provisions of this section, an employee (probationer) shall have the right to appeal from any rejection during the probationary period based on political, or religious or Association activities, or race, color, national origin, sex, age, disability, or sexual orientation.

C. The appeal must be written, must be signed by the employee and set forth the grounds and facts by which it is claimed that grounds for appeal exist under subsection 17.4 (Rejection During Probation/Appeal) paragraph B and must be filed through the Director of Human Resources

to the Merit Board by 5:00 p.m. on the seventh (7th) calendar day after the date of delivery to the employee of notice of rejection.

D. The Merit Board shall consider the appeal, and if it finds probable cause to believe that the rejection may have been based on grounds prohibited in subsection 17.4 (Rejection During Probation/Appeal) paragraph B, it may refer the matter to a Hearing Officer for hearing, recommended findings of fact, conclusions of law and decision, pursuant to the relevant provisions of the Merit Board rules in which proceedings the rejected probationer has the burden of proof.

E. If the Merit Board finds no probable cause for a hearing, it shall deny the appeal. If, after hearing, the Merit Board upholds the appeal, it shall direct that the appellant be reinstated in the position and the appellant shall begin a new probationary period unless the Merit Board specifically reinstates the former period.

17.5 **Regular Appointment.** The regular appointment of a probationary employee shall begin on the day following the end of the probationary period, subject to the condition that the Director of Human Resources receive from the appointing authority a statement in writing that the services of the employee during the probationary period were satisfactory and that the employee is recommended for permanent appointment. A probationary employee may be rejected at any time during the probation period without regard to the Skelly provisions of this Memorandum, without notice and without right of appeal or hearing. If the appointing authority has not returned the probation report, a probationary employee may be rejected from the service within a reasonable time after the probation period for failure to pass probation. If the appointing authority fails to submit in a timely manner the proper written documents certifying that a probationary employee has served in a satisfactory manner and later acknowledges it was his or her intention to do so, the regular appointment shall begin on the day following the end of the probationary period.

Notwithstanding any other provisions of the MOU, an employee rejected during the probation period from a position in the Merit System to which the employee had been promoted or transferred from an eligible list, shall be restored to a position in the department from which the employee was promoted or transferred. An employee dismissed for other than disciplinary reasons within six (6) months after being promoted or transferred from a position in the Merit System to a position not included in the Merit System shall be restored to a position in the classification in the department from which the employee was promoted or transferred.

A probationary employee who has been rejected or has resigned during probation shall not be restored to the eligible list from which the employee was certified unless the employee receives the affirmative recommendation from the appointing authority and is certified by the Director of Human Resources whose decision is final. The Director of Human Resources shall not certify the name of a person restored to the eligible list to the same appointing authority by whom the person was rejected from the same eligible list, unless such certification is requested in writing by the appointing authority.

Notwithstanding the provisions of this section, employees previously employed as a Deputy Public Defender Fixed-Term classification do not have the right to be restored to, reemployed in, or placed on the eligible list for the Deputy Public Defender Fixed-Term classification.

17.6 **Layoff During Probation.** An employee who is laid off during probation, if reemployed in the same class by the same department, shall be required to complete only the balance of the required probation. If reemployed in another department or in another classification, the employee shall serve a full probationary period. An employee appointed to a permanent position from a layoff or reemployment list is subject to a probation period if the position is in a department other than the department from which the employee separated, displaced, or voluntarily demoted in lieu of layoff. An appointment from a layoff or reemployment list is not subject to a probation period if the position is in the department from which the employee separated, displaced or voluntarily demoted in lieu of layoff.

17.7 **Rejection During Probation of Layoff Employee.** An employee who has achieved permanent status in the class before layoff and who subsequently is appointed from the layoff list and then rejected during the probation period shall be automatically restored to the layoff list, unless discharged for cause, if the person is within the period of layoff eligibility. The employee shall begin a new probation period if subsequently certified and appointed in a different department or classification than that from which the employee was laid off.

SECTION 18 - PROMOTION

18.1 **Competitive Exam.** Promotion shall be by competitive examination unless otherwise provided in this MOU.

18.2 **Promotion Policy.** The Director of Human Resources, upon request of an appointing authority, shall determine whether an examination is to be called on a promotional basis.

18.3 **Open Exam.** If an examination for one of the classes represented by the Association is proposed to be announced on an Open only basis the Director of Human Resources shall give five (5) days prior notice of such proposed announcement and shall meet at the request of the Association to discuss the reasons for such open announcement.

18.4 **Promotion via Reclassification Without Examination.** Notwithstanding other provisions of this Section, an employee may be promoted from one classification to a higher classification and his/her position reclassified at the request of the appointing authority and under the following conditions:

A. An evaluation of the position(s) in question must show that the duties and responsibilities have significantly increased and constitute a higher level of work.

B. The incumbent of the position must have performed at the higher level for six (6) months.

C. The incumbent must meet the minimum education and experience requirements for the higher class.

D. The action must have approval of the Director of Human Resources.

E. The Association approves such action. The appropriate rules regarding probationary status and salary on promotion are applicable.

18.5 **Requirements for Promotional Standing.** In order to qualify for an examination called on a promotional basis, an employee must have probationary or permanent status in the merit system and must possess the minimum qualifications for the class. Applicants will be admitted to promotional examinations only if the requirements are met on or before the final filing date. If an employee who is qualified on a promotional employment list is separated from the merit system, except by layoff, the employee's name shall be removed from the promotional list.

18.6 **Seniority Credits.** Employees who have qualified to take promotional examinations and who have earned a total score, not including seniority credits, of seventy (70) percent or more, shall receive, in addition to all other credits, five one-hundredths of one percent (.05%) for each completed month of service as a permanent County employee continuously preceding the final date for filing application for said examination. For purposes of seniority credits, leaves of absence shall be considered as service. Seniority credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five percent (5%) credit for seniority in any promotional examination.

18.7 **Release Time for Physical Examination.** County employees who are required as part of the promotional examination process to take a physical examination shall do so on County time at the County's expense.

18.8 **Release Time for Examinations.** Permanent employees will be granted reasonable time from work without loss of pay to take County examinations or to go to interviews for a County position provided the employees give the Department sufficient notice of the need for time off. "Reasonable" release time shall include time for travel and interviewing/testing.

SECTION 19 – RESIGNATIONS

19.1 **Resignation Procedure.** An employee's voluntary termination of service is a resignation. Written resignations shall be forwarded to the Human Resources Department by the appointing authority immediately on receipt, and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the appointing authority in writing to the employee and to the Human Resources Department and shall indicate the effective date of termination.

19.2 **Resignation in Good Standing.** A resignation giving the appointing authority written notice at least two (2) weeks in advance of the last date of service (unless the appointing authority requires a longer period of notice, or consents to the employee's terminating on shorter notice) is a resignation in good standing.

19.3 **Constructive Resignation.** A constructive resignation occurs and is effective when:

A. An employee has been absent from duty for five (5) consecutive working days without leave; and

B. Five (5) more consecutive work days have elapsed without response by the employee after the receipt of a registered or certified letter citing a notice of resignation by the appointing authority to the employee at the employee's last known address, but no more than ten (10) working days from mailing of said notice.

19.4 **Effective Resignation.** A resignation is effective when delivered or spoken to the appointing authority, operative on that date or another date specified. An employee who resigns without advance notice, as set forth in subsection 19.2 (Resignation in Good Standing), may seek rescission of the resignation and reinstatement by delivering an appeal in writing to the Human Resources not later than close of business on the third (3rd) calendar day after the resignation is effective. Within five (5) work days of receipt of the appeal, the Director of Human Resources shall consider the appeal and render a final and binding decision including, if applicable, the date of reinstatement.

19.5 **Revocation.** A resignation that is effective is revocable only by written concurrence of the employee and the appointing authority.

19.6 **Coerced Resignations.**

A. Time Limit. A resignation which the employee believes has been coerced by the appointing authority may be revoked within seven (7) calendar days after its expression, by serving written notice on the Director of Human Resources and a copy to the appointing authority.

B. Reinstatement. If the appointing authority acknowledges that the employee could have believed that the resignation was coerced, it shall be revoked and the employee returned to duty effective on the day following the appointing authority's acknowledgment without loss of seniority or pay.

C. Contest. Unless, within seven (7) days of the receipt of the notice, the appointing authority acknowledges that the resignation could have been believed to be coerced, this question should be handled as an appeal to the Merit Board. In the alternative, the employee may file a written election with the Director of Human Resources waiving the employee's right of appeal to the Merit Board in favor of the employee's appeal rights

under the grievance procedure contained in Section 21 of the MOU beginning with Step 3.

D. Disposition. If a final decision is rendered that determines that the resignation was coerced, the resignation shall be deemed revoked and the employee returned to duty effective on the day following the decision but without loss of seniority or pay, subject to the employee's duty to mitigate damages.

SECTION 20 - DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN PAY, AND DEMOTION

20.1 Sufficient Cause for Action. The appointing authority may dismiss, suspend, temporarily reduce the pay of, or demote any employee for cause. The reduction in pay may not exceed five percent (5%) for a three (3) month period. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension or demotion may be based on reasons other than those specifically mentioned:

A. Absence without leave.

B. Conviction of any criminal act involving moral turpitude.

C. Conduct tending to bring the merit system into disrepute.

D. Disorderly or immoral conduct.

E. Incompetence or inefficiency.

F. Insubordination.

G. Being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on County premises.

H. Neglect of duty (i.e. non-performance of assigned responsibilities).

I. Negligent or willful damage to public property or waste of public supplies or equipment.

I. Violation of any lawful or reasonable regulation or order given by a supervisor or Department Head.

K. Willful violation of any of the provisions of the merit system ordinance or Personnel Management Regulations.

L. Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment.

M. Misappropriation of County funds or property.

N. Unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this MOU.

O. Dishonesty or theft.

P. Excessive or unexcused absenteeism and/or tardiness.

Q. Sexual harassment, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating and hostile working environment.

20.2 **Skelly Requirements.** Before taking a disciplinary action to dismiss, suspend for more than five (5) work days, temporarily reduce the pay of, or demote an employee, the appointing authority shall cause to be served personally or by certified mail, on the employee, a Notice of Proposed Action, which shall contain the following:

A. A statement of the action proposed to be taken.

B. A copy of the charges; including the acts or omissions and grounds upon which the action is based.

C. If it is claimed that the employee has violated a rule or regulation of the County, department or district, a copy of said rule shall be included with the notice.

D. A statement that the employee may review and request copies of materials upon which the proposed action is based.

E. A statement that the employee has seven (7) calendar days to respond to the appointing authority either orally or in writing.

20.3 **Employee Response.** The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the appointing authority either orally or in writing before the proposed action may be taken. Upon request of the employee and for good cause, the appointing authority may extend in writing the period to respond. If the employee's response is not filed within seven (7) days or during an extension, the right to respond is lost.

20.4 **Leave Pending Employee Response.** Pending response to a Notice of Proposed Action within the first seven (7) days or extension thereof, the appointing authority for cause specified in writing may place the employee on temporary leave of absence, with pay.

20.5 **Length of Suspension.** Suspensions without pay shall not exceed thirty (30) days unless ordered by an arbitrator, an adjustment board or the Merit Board.

20.6 **Procedure on Dismissal, Suspension, Temporary Reduction in Pay, or Demotion.**

A. Written Order Required. In any disciplinary action to dismiss, suspend, temporarily reduce the pay of, or demote an employee having permanent status in a position in the merit system, after having complied with the Skelly requirements where applicable, the appointing authority shall make an order in writing stating specifically the causes for the action.

B. Service of Order. Said order of dismissal, suspension, temporary reduction in pay, or demotion shall be filed with the Director of Human Resources, showing by whom and the date a copy was served upon the employee to be dismissed, suspended, temporarily reduced in pay, or demoted, either personally or by certified mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U.S. Postal Service.

C. Employee Appeals from Order. The employee may appeal an order of dismissal, suspension, temporary reduction in pay, or demotion either to the Merit Board or through the procedures of Section 21 (Grievance Procedure) of this MOU provided that such appeal is filed in writing with the Director of Human Resources within ten (10) calendar days after service of said order. An employee may not both appeal to the Merit Board and file a grievance under Section 21 (Grievance Procedure) of this MOU.

20.7 **Employee Representation Rights.** The County recognizes an employee's right to representation during an investigatory interview or meeting which may result in discipline. The County shall not interfere with the representative's right to assist an employee to clarify the facts during the interview. If the employee requests an Association representative, the investigatory interview shall be temporarily recessed for a reasonable period of time until a Association representative can be present. For those interviews, which by nature of the incident must take place immediately, the Association will take all reasonable steps to make an Association representative immediately available. The employer shall inform the employee of the general nature of the investigation at the time the employer directs the employee to be interviewed.

SECTION 21 - GRIEVANCE PROCEDURE

21.1 **Definition and Procedural Steps.** A grievance is any dispute that involves the interpretation or application of any provision of this MOU excluding, however, those provisions of this MOU that specifically provide that the decision of any County official shall be final; the interpretation or application of those provisions is not subject to the grievance procedure. An employee may elect to appeal disciplinary action through this grievance procedure, or to the Merit Board on matters within its jurisdiction, but not both. The Association may represent the grievant at any step of the process.

SECTION 21 - GRIEVANCE PROCEDURE

Grievances must be filed within thirty (30) calendar days of the incident or occurrence about which the grievant claims to have a grievance. Discipline appeals utilizing the grievance procedure must be filed within the timeframe set forth in Section 20.6 – Procedure on Dismissal, Suspension, or Demotion. Grievances will be processed in the following manner:

Step 1. Supervisor. The Association or any employee or group of employees ("grievant") who believes that a provision of this MOU has been misinterpreted or misapplied to his, her, or their detriment shall discuss the complaint with the grievant's immediate supervisor, who shall meet with the grievant within five (5) work days of receipt of a written request to hold such meeting. The supervisor will advise the grievant in writing, within five (5) work days of the meeting, whether the grievance is granted or denied. The supervisor shall deliver his/her determination to by email to the grievant and to the Association's designated representative.

Step 2. Department Head. If an issue is not satisfactorily resolved in Step 1 above, the Association may submit the grievance in writing within ten (10) work days to the Public Defender or his or her designee. This formal written grievance must state which provision(s) of the MOU has been misinterpreted or misapplied, how it has been misinterpreted or misapplied, how misapplication or misinterpretation has affected the grievant to the grievant's detriment, and the redress the Association seeks. A copy of each written communication regarding a grievance must be filed with the Employee Relations Officer or designee. The Public Defender or his or her designee shall have ten (10) work days in which to respond to the grievance in writing stating the reason(s) for the disposition of the grievance. The response shall be emailed to the grievant and to the Association's designated representative. If either the Association or grievant request a meeting with the Public Defender or his/her designee at this step, such a meeting will be held.

Step 3. Labor Relations. If a grievance is not resolved at Step 2, the Association may submit the grievance to the Employee Relations Officer or designee in writing within ten (10) work days after the date that the Step 2 response is delivered to the Association. Within twenty (20) work days after receipt of the grievance at Step 3, the Employee Relations Officer or designee must meet with the Association and the Public Defender or his/her designee to discuss the facts, discuss other potentially relevant information or avenues of inquiry and any terms either party wishes to offer to resolve the grievance. In the course of the step 3 meeting, both parties shall be prepared to present to the other party a copy of each relevant document available at the time of the meeting.

For grievances involving interpretation of this MOU, the Employee Relations Officer or his/her designee will decide the grievance on its merits and provide the grievant, the Association, and the Department with a written decision stating the reason(s) for the disposition of the grievance within fifteen (15) workdays of the date of the Step 3 Meeting, unless more time is granted by mutual agreement.

For grievances involving appeals from disciplinary action, the Employee Relations Officer or his/her designee will attempt to resolve the grievance. In the event that the grievance is not resolved, the Employee Relations Officer or his/her designee will provide written notice of that fact to the grievant, the Association, and the Department

within fifteen (15) workdays of the date of the Step 3 meeting, unless more time is granted by mutual agreement.

Step 4. Mediation. No grievance may be processed under this section which has not first been filed and investigated in accordance with Step 3 above. If the parties are unable to reach a mutually satisfactory accord on any grievance that is presented at Step 3, the Association may appeal the grievance and request mediation in writing to the Employee Relations Officer or designee within ten (10) work days of the date of the written response at Step 3. This step of the grievance procedure may be waived by the written mutual agreement of the parties.

Step 5. Arbitration. If the grievance is not resolved at step 4, either party may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the Employee Relations Officer. Such request shall be submitted within twenty (20) work days of the completion of mediation at Step 4. Within twenty (20) work days of the request for arbitration the parties shall mutually select an arbitrator who shall render a decision within thirty (30) work days from the date of final submission of the grievance including receipt of the court reporter's transcript and post-hearing briefs, if any, unless more time is granted by mutual agreement. If the parties are unable to agree upon an arbitrator, they shall request a list of the names of five (5) impartial arbitrators from which the parties will alternately strike names, with the Employee Relations Officer striking the first name, until a single name remains.

The fees and expenses of the arbitrator and the court reporter (if any) will be shared equally by the Association and the County. Each party will bear the costs of its own presentation, including preparation and post-hearing briefs, if any.

21.2 Scope of Arbitration Decisions

A. Decisions of Arbitrators on matters properly before them, are final and binding on the parties hereto, to the extent permitted by law.

B. No Arbitrator has the power to amend or modify this MOU or written agreements supplementary hereto.

C. If the Employee Relations Officer, pursuant to the procedures outlined in Step 3 above or Step 4 above resolves a grievance which involves suspension or discharge, he or she may agree to payment for lost time (including but not limited to both back pay and front pay) or to reinstatement with or without payment for lost time.

D. No change in this MOU will be recognized unless agreed to by the County and the Association.

21.3 Filing By The Association At Step 3. The Association may file a grievance at Step 3 on behalf of affected employees when action by the County Administrator or the Board of Supervisors allegedly violates a provision of this MOU.

21.4 **Time Limits.** The time limits specified above may be waived by mutual agreement of the parties to the grievance. If the County fails to meet the time limits specified in Steps 1 through 3 above, the grievance will automatically move to the next step. If a grievant fails to meet the time limits specified in Steps 1 through 4 above, the grievance will be deemed to have been withdrawn. Any procedural issue of arbitrability, including compliance with time limits, will be decided by the arbitrator.

21.5 **Strike/Work Stoppage.** During the term of this MOU, the Association, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, sick-out, or refusal to perform customary duties. In the case of a legally declared lawful strike against a private or public sector employer which has been sanctioned and approved by the labor body or council having jurisdiction, an employee who is in danger of physical harm shall not be required to cross the picket line, provided the employee advises his or her supervisor as soon as possible, and provided further that an employee may be required to cross a picket line where the performance of his or her duties is of an emergency nature and/or failure to perform such duties might cause or aggravate a danger to public health or safety.

SECTION 22 - BILINGUAL PAY

A salary differential of one hundred dollars ($100) per month shall be paid incumbents of positions requiring bilingual proficiency as designated by the appointing authority and Director of Human Resources. Said differential shall be paid to eligible employees in paid status for any portion of a given month. Designation of positions for which bilingual proficiency is required is the sole prerogative of the County. The Association shall be notified when such designations are made.

SECTION 23 - RETIREMENT

23.1 Contribution.

A. Effective on November 1, 2012, employees are responsible for the payment of one hundred percent (100%) of the employees' basic retirement benefit contributions determined annually by the Board of Retirement of the Contra Costa County Employees' Retirement Association without the County paying any part of the employees' contribution. Employees are also responsible for the payment of the employees' contributions to the retirement cost of living program as determined annually by the Board of Retirement, without the County paying any part of the employees' contributions. The County is responsible for one hundred percent (100%) of the employer's retirement contributions determined annually by the Board of Retirement.

B. The Association will pay the county thirty-four thousand dollars ($34,000) to compensate the county for the lost savings associated with the delay in implementation of Section 23.1A above. Payment will be due upon ratification of the MOU by the Board of Supervisors.

23.2 Retirement Benefits – Employees Who Become Members of CCCERA After December 31, 2012.

A. For employees who become members of the Contra Costa County Employees Retirement Association (CCCERA) after December 31, 2012, retirement benefits are governed by the California Public Employees Pension Reform Act of 2013 (PEPRA), (Chapters 296, 297, Statutes of 2012). To the extent PEPRA conflicts with any provision of this Agreement, PEPRA will govern.

B. For employees who become members of the Contra Costa County Employees Retirement Association (CCCERA) after December 31, 2012, the cost of living adjustment to the retirement allowance will not exceed two percent (2%) per year, and the cost of living adjustment will be banked.

C. The County will seek legislation amending the County Employees Retirement Law of 1937 to clarify that the current Tier III disability provisions apply to employees who, under PEPRA, become New Members of CCCERA. The Association will support the legislation, in addition to the County, by calling and sending a letter (on Association letterhead) in support of the bill to the state legislator sponsoring the bill, on or before the date specified by the County. In addition, if requested by the County, the Association will testify in support of the bill before the state legislative committees considering the bill.

SECTION 24– DEPUTY PUBLIC DEFENDER FIXED-TERM CLASSIFICATION

A. The Deputy Public Defender Fixed-Term (25WB) attorney class is ineligible for the following benefits:

1. Longevity Pay Plan
2. Management Life Insurance
3. Management Long-Term Disability

B. Employees in the Deputy Public Defender Fixed-Term Attorney class will be credited hours paid administrative leave each January 1, subject to the provisions of the MOU.

SECTION 25 - TRAINING AND PROFESSIONAL EXPENSE REIMBURSEMENT

25.1 Deputy Public Defender Professional Expenses. The County shall reimburse each Deputy Public Defender up to a maximum of six hundred dollars ($600) for each fiscal year for the following types of expenses: membership dues in legal, professional associations; purchase of legal publications; legal on-line computer services; and training and travel costs for educational courses related to the duties of a Deputy Public Defender; and software and hardware from a standardized County approved list or with Department Head approval, provided each Deputy Public Defender complies with the provisions of the Computer Use and Security Policy adopted by the Board of Supervisors.

Any unused accrual may be carried forward to the next fiscal year up to eight hundred dollars ($800).

The County will pay, on behalf of Deputy Public Defenders, California State Bar membership dues (but not penalty fees) and for criminal specialization fees. To be eligible, an employee must be employed as a permanent Deputy Public Defender with the Contra Costa County Public Defenders' Office as of January 1 of each calendar year.

The Office of the Public Defender will notify the Auditor-Controller by January 10th of each year the count of eligible attorneys and the amount to be paid to the State Bar.

The Auditor-Controller will prepare one check to the State Bar of California for annual membership dues by January 20th.

The Office of the Public Defender will process payment and any required documentation to the State Bar of California by January 30, of each year.

25.2 **Public Defender Investigator Professional Expenses.** The County shall reimburse each Public Defender Investigator up to a maximum of two hundred fifty dollars ($250) each fiscal year for the following types of expenses: membership dues in investigation/legal/professional associations; purchase of investigation/legal publications; and training travel costs for educational courses related to the duties of a Public Defender Investigator; and software and hardware from a standardized County approved list or with Department Head approval, provided each Public Defender Investigator complies with the provisions of the Computer Use and Security Policy adopted by the Board of Supervisors. Any unused accrual may be carried forward to the next fiscal year up to three hundred seventy five dollars ($375).

25.3 **Deputy Public Defender Law School Student Loan Reimbursement Program.**

A. Eligibility: Employees first employed in the classifications of Deputy Public Defender Special Assignment and Deputy Public Defender Fixed-Term, Deputy Public Defender I and/or Deputy Public Defender II. Payments will only be made to employees in paid status as of July 1, 2014, and thereafter.

B. Qualifying amounts and terms: The employee must satisfy all of the following criteria to be eligible for any payments through this Law School Student Loan Reimbursement Program.

   i. First Payment: The employee must be hired as a permanent Deputy Public Defender Fixed-Term, Deputy Public Defender I or II, and worked as a permanent Deputy Public Defender Fixed-Term, Deputy Public Defender I, II, Ill, or IV for at least three (3) consecutive years from date of hire to be eligible for the first payment. Upon completion of the third

consecutive year of employment as a Deputy Public Defender Fixed-Term, Deputy Public Defender I, II, Ill, or IV, the employee may receive $2,000 for purposes of reimbursement for law school student loan payments.

ii. Second Payment: For an employee who entered County service as a permanent Deputy Public Defender Fixed-Term, Deputy Public Defender I or II, the employee must work as a Deputy Public Defender I, II, Ill, or IV during the fourth year of employment from date of hire to be eligible for the second payment. Upon completion of four (4) years of employment with the County as a permanent Deputy Public Defender, the employee may receive $3,000 for purposes of reimbursement for law school student loan payments.

iii. Third Payment: For an employee who entered County service as a permanent Deputy Public Defender Fixed-Term, Deputy Public Defender I or II, the employee must work as a Deputy Public Defender I, II, Ill, or IV during the fifth year of employment from date of hire to be eligible for the third payment. Upon completion of five (5) years of employment with the County as a permanent Deputy Public Defender, the employee may receive $4,000 for purposes of reimbursement for law school student loan payments.

iv. Fourth Payment: For an employee who entered County service as a permanent Deputy Public Defender Fixed-Term, Deputy Public Defender I or II, the employee must work as a Deputy Public Defender I, II, Ill, or IV during the sixth year of employment from date of hire to be eligible for the fourth payment. Upon completion of six (6) years of employment with the County as a permanent Deputy Public Defender, the employee may receive $6,000 for purposes of reimbursement for law school student loan payments.

v. For employees employed less than forty hours per week, the law school reimbursement amount shall be adjusted proportionately to the percentage of time the person is actively working throughout the respective year.

vi. For each claim of reimbursement, employee must supply documentation reflecting the existence of an outstanding student loan.

vii. This program is not available to attorneys who have paid off their law school student loans or to those attorneys who did not incur law school student loans.

viii. The law school student loan reimbursement program will not exceed $15,000 for any one person.

ix. The law school student loan reimbursement payments are subject to applicable state and federal withholding, if any.

SECTION 26 - COMPUTER VISION CARE (CVC) USERS EYE EXAMINATION

Employees shall be eligible to receive an annual eye examination on County time and at County expense in accordance with the following conditions:

A. Eligible employees must use a video display terminal at least an average of two hours per day as certified by their department.

B. Eligible employees who wish an eye examination under this program should request it through the County Human Resources Department, Benefits Division, who will arrange for eye examinations and monitor the results on a County-wide basis.

C. Should prescription CVC glasses be prescribed for an employee following an eye examination, the County agrees to provide, at no cost, the basic coverage including a fifty dollar ($50) frame and single vision lenses. Employees may, through individual arrangement between the employee and his/her doctor, and solely at the employee's expense, include bifocal, trifocal or blended lenses and other care, services or materials not covered by the plan. The basic plan coverage, including the examination, may be credited toward the employee enhanced benefit.

SECTION 27 – VEHICLE COSTS

27.1 **Reimbursement for Use of Personal Vehicle.** 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 on the date it becomes effective or the first of the month following announcement of the changed rate by the Internal Revenue Service, whichever is later.

27.2 **Charge For Use of Home Garaged County Vehicle.** Employees hired after July 1, 1994 who are assigned vehicles to garage at home will be charged the IRS mileage rate for all commute miles driven outside the limits of Contra Costa County that exceed thirty (30) miles round-trip in any one day.

27.3 **Investigator Use of County Cars.** The Office of Public Defender will continue the current policy regarding the use of cars by Public Defender Investigators.

SECTION 28 - PAY WARRANT ERRORS

If an employee receives a pay warrant which has an error in the amount of compensation to be received and if this error occurred as a result of a mistake by the Auditor-Controller's Department, it is the policy of the Auditor-Controller's Department that the error will be corrected and a new warrant issued within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays from the time the Department is made aware of and verifies that the pay warrant is in error. If the pay warrant error has

occurred as a result of a mistake by an employee (e.g. payroll clerk) other than the employee who is receiving the pay, the error will be corrected as soon as possible from the time the department is made aware that pay warrant is in error. Pay errors in employee pay shall be corrected as soon as possible as to current pay rate but that no recovery of either overpayments or underpayments to an employee shall be made retroactively except for the two (2) year period immediately preceding discovery of the pay error. This provision shall apply regardless of whether the error was made by the employee, the appointing authority or designee, the Director of Human Resources or designee, or the Auditor-Controller or designee. Recovery of fraudulently accrued over or underpayments are excluded from this section for both parties. When the County notifies an employee of an overpayment and proposed repayment schedule and the employee wishes to meet with the County, a meeting will be held at which time a repayment schedule shall be determined. A repayment schedule will be no longer than three times (3) the length of time the overpayment occurred. If requested by the employee, a Association representative may be present at a meeting with management to discuss a repayment schedule in the case of overpayments to the employee.

SECTION 29 - FLEXIBLE STAFFING

Certain positions may be designated by the Director of Human Resources as flexibly staffed positions. Positions are generally allocated at the first level of the job series when vacated. When the position is next filled and an incumbent of one of these positions meets the minimum qualifications for the next higher level and has met appropriate competitive requirements he or she may then be promoted to the next higher classification within the job series without need of a classification study. If the Public Defender's Department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to promote an employee on the first of the month when eligible, said appointment shall be made retroactive to the first of the month when eligible. An employee who is denied a promotion to a flexibly staffed position may appeal such denial to the Merit Board.

SECTION 30 - PERSONNEL FILES

An employee shall have the right to inspect and review any official record(s) relating to his or her performance as an employee or to a grievance concerning the employee which is kept or maintained by the County in the employee's personnel file in the Human Resources Department or in the employee's personnel file in their Department. The employee's Association representative, with written authorization by the employee, shall also have the right to inspect and review any official record(s) described above. The contents of such records shall be made available to the employee and/or the employee's Association representative, for inspection and review at reasonable intervals during the regular business hours of the County. Employees shall be permitted to review their personnel files at the Personnel office during their working hours. For those employees whose work hours do not coincide with the County's business hours, management shall provide a copy of the employee's personnel file for the employee's review. The custodian of records will certify that the copy is a true and correct copy of the original file.

SECTION 30 - PERSONNEL FILES

The County shall provide an opportunity for the employee to respond in writing to any information which is in the employee's personnel file about which he or she disagrees. Such response shall become a permanent part of the employee's personnel record. The employee shall be responsible for providing the written responses to be included as part of the employee's official personnel file. This section does not apply to the records of an employee relating to the investigation of a possible criminal offense, medical records and information or letters of reference.

Counseling memos, which are not disciplinary in nature, are to be retained in the file maintained by the employee's supervisor or the person who issued the counseling memo and are not to be transferred to the employee's central file which is normally retained by the Human Resources Department unless such memos are subsequently used in conjunction with a disciplinary action such as a letter of reprimand.

All documents pertaining to disciplinary actions shall be placed in the employee's official personnel file within five (5) work days after the time management becomes aware of the incident and has completed its investigation as to whether the employee is culpable and shall be date stamped or dated at time of entry. This section is not intended to include supervisor's notes or reminders of specific incidents or ongoing reports such as attendance records. Generally, such investigations should be completed within thirty (30) calendar days of the date management becomes aware of the incident(s), it being understood that under certain circumstances such as the unavailability of witnesses or the possibility of a criminal act having been committed may cause the investigation to take longer than the aforementioned thirty (30) days.

Copies of written reprimands or memoranda pertaining to an employee's unsatisfactory performance which are to be placed in the employee's personnel file shall be given to an employee who shall have the right to respond in writing to said documents. Letters of reprimand are subject to the grievance procedure but shall not be processed past Step 3. If a letter of reprimand is used in a subsequent discharge, suspension or demotion of the employee, the validity of the letter of reprimand may be considered at any arbitration of the subsequent disciplinary action.

Copies of letters of commendation which are to be placed in the employee's personnel file will be given to the employee. Employees have the right to review their official personnel files which are maintained in the Human Resources Department or by their departments. In a case involving a grievance or disciplinary action, the employee's designated representative may also review his/her personnel file with specific written authorization from the employee. The County shall supply the Association with lists of official personnel files and locations.

Derogatory material in an employee's personnel file over two years old will not be used in a subsequent disciplinary action unless directly related to the action upon which the discipline is taken. Derogatory material does not include prior suspensions, demotions or dismissals for cause.

SECTION 31 - SERVICE AWARDS

The County shall continue its present policy with respect to service awards including time off provided, however, that the type of award given shall be at the sole discretion of the County. The following procedures shall apply with respect to service awards:

A. Presentation Before the Board of Supervisors. An employee with twenty (20) or more years of service may go before the Board of Supervisors to receive his/her Service Award. When requested by a department, the Human Resources Department will make arrangements for the presentation ceremony before the Board of Supervisors and notify the department as to the time and date of the Board meeting.

B. Service Award Day Off. Employees with fifteen (15) or more years of service are entitled to take a day off with pay at each five (5) year anniversary.

SECTION 32 – REIMBURSEMENT FOR MEAL EXPENSE

Employees shall be reimbursed for meal expenses under the following circumstances and in the amount specified:

A. When the employee is required by his/her Department Head to attend a meeting concerning County business or County affairs.

B. When the employee is required to be out of his/her regular or normal work area during a meal hour because of a particular work assignment.

C. When the employee is required to stay over to attend consecutive or continuing afternoon and night sessions of a board or commission.

D. When the employee is required to incur expenses as host for official guests of the County, work as members of examining boards, official visitors, and speakers or honored guests at banquets or other official functions.

E. When the employee is required to work three (3) or more hours of overtime or scheduled to work overtime with less than twenty-four (24) hours notice; in this case he or she may be reimbursed in accordance with the Administrative Bulletin on Expense Reimbursement. Meal costs will be reimbursed only when eaten away from home or away from the facility in the case of employees at twenty-four (24) hour institutions.

SECTION 33 - COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

The loss or damage to personal property of employees is subject to reimbursement under the following conditions:

A. The loss or damage must result from an event which is not normally encountered or anticipated on the job and which is not subject to the control of the employee.

B. Ordinary wear and tear of personal property used on the job is not compensated.

C. Employee tools or equipment provided without the express approval of the Department Head and automobiles are excluded from reimbursement.

D. The loss or damage must have occurred in the line of duty.

E. The loss or damage was not a result of negligence or lack of proper care by the employee.

F. The personal property was necessarily worn or carried by the employee in order to adequately fulfill the duties and requirements of the job.

G. The loss or damage to employee's eyeglasses, dentures or other prosthetic devices did not occur simultaneously with a job connected injury covered by Workers' Compensation.

H. The amount of reimbursement shall be limited to the actual cost to repair damages. Reimbursement for items damaged beyond repair shall be limited to the actual value of the item at the time of loss or damage but not more than the original cost.

I. The burden of proof of loss rests with the employee.

J. Claims for reimbursement must be processed in accordance with the Administrative Bulletin on Compensation for Loss or Damage to Personal Property.

SECTION 34 - UNFAIR LABOR PRACTICE

Either the County or the Association may file an unfair labor practice as defined in Board of Supervisor's Resolution 81/1165 against the other. Allegations of an unfair labor practice, if not resolved in discussions between the parties within thirty (30) work days from the date of receipt, may be heard and decided by a mutually agreed upon impartial third party.

SECTION 35 - PERMANENT PART-TIME EMPLOYEES

35.1 **Benefits.** Permanent part-time employees receive prorated vacation and sick leave benefits. They are eligible for health, dental and life insurance benefits at corresponding premium rates providing they work at least fifty percent (50%) of full-

time. If the employee works at least fifty percent (50%) of full-time, County retirement participation is also included.

35.2 **Hours.** Permanent part-time employees who wish to have the hours of their position increased, must so request in writing. These requests must be received by the employee's department during the month of January and/or July for the duration of this MOU. Departments reviewing these requests will evaluate them within thirty (30) days of their receipt by considering the actual hours assigned to and worked by the employee during the previous six (6) months and the anticipated continuing need from their assignment on an increased basis. Those requests which are approved by the department for an increase in hours will be submitted for consideration by the County as a P300 request within an additional sixty (60) days. Nothing contained herein shall conflict with layoff/reemployment provisions.

SECTION 36 – DEPUTY PUBLIC DEFENDER SPECIAL ASSIGNMENT - EXEMPT & TEMPORARY EMPLOYEES

36.1 Deputy Public Defender Special Assignment-Exempt (25W2) Employees.

A. The class of Deputy Public Defender Special Assignment is exempt from the merit system. Individuals appointed to this class are employed for a three-month limited term assignment that can be terminated at any time. Compensation for this class is based on a monthly rate of pay that is pro-rated for any partial month of work. Upon approval by the Public Defender, appointments may be renewed for additional three-month limited terms, but in no case will additional appointments exceed a total of thirty-nine (39) months of employment.

B. Deputy Public Defender Special Assignment-Exempt employees are entitled generally only to the benefits set forth in this Section 36.1 and Section 36.4. If a pay or benefit that is described in this MOU does not specifically reference Deputy Public Defender Special Assignment-Exempt, then the pay or benefit does not apply to employees in this class.

1. Employees are entitled to accrue paid time off (PTO) at the rate of 3.33 hours per month. Accruals begin on the date of appointment. Accruals for portions of a month will be calculated on the same basis as for partial compensation. PTO may be taken in one minute increments, but may not be taken during the first month of employment. The maximum amount of PTO that employees may accrue is eighty (80) hours. On separation from County service, an employee will be paid for any unused paid time off, not to exceed eighty (80) hours. If an employee in the Deputy Public Defender Special Assignment-Exempt classification is appointed to a Public Defender I, II, III, or IV position, any accrued PTO shall be converted to vacation hours and subject to the provisions of this MOU relating to vacation.

2. Employees will accrue sick leave at the rate of eight (8) hours per month. Employees are subject to the rules governing use of sick leave that are set forth in Section 12 of this MOU.

3. Employees are entitled to observe the holidays identified in Section 10 of this MOU.

4. In recognition of the fact that employees in this class are not entitled to overtime, employees will be credited with twenty (20) hours of paid personal leave at the beginning of each three-month appointment. The maximum amount of paid personal leave that employees may accrue is eighty (80) hours. This paid personal leave is separate from PTO. Employees will not be paid for any unused paid personal leave upon separation from County service.

5. **Health Benefits for Employees in the Classification of Deputy Public Defender – Special Assignment-Exempt:** For the plan year that begins on January 1, 2018, employees in this classification will have access to the County Selected High Deductible Health Plan. If an employee achieves twelve consecutive months of County employment in this classification during or prior to the plan year that begins on January 1, 2018, or thereafter during the term of this MOU, the employee will be eligible to access prospectively the medical plans and medical plan subsidies set forth in 16.7.A. and 16.7.B. of this MOU.

6. Employees are entitled to payment of California State Bar membership dues and criminal specialization fees pursuant to Section 25.1 of this MOU.

36.2 **Temporary Employee Leave Benefits.** In addition to the limitations of Temporary Employment in the DEFINITIONS section of this MOU, if a pay or benefit that is described in this MOU does not specifically reference Temporary Employee, then the pay or benefit does not apply to temporary employees.

A. **Crediting and Maximum Accumulation of Paid Time Off.** On the first of the month following a temporary employee's completion of two thousand eighty (2080) straight time hours worked, he or she shall be credited with forty (40) hours of "paid time off" ("PTO"). Forty (40) hours paid time off credit is the maximum amount an employee may have at any time.

B. **Use of Paid Time Off.** Paid time off shall not be taken until credited per subsection 36.2 paragraph A (Crediting and Maximum Accumulation of Paid Time Off) above.

C. **Payoff at Separation.** If a temporary employee terminates his/her County employment (separates from County service), the employee shall be paid all currently "credited" PTO hours, as described in subsection 36.2 paragraph A (Crediting and Maximum Accumulation of Paid Time Off) and, in addition, shall be paid off for that portion of PTO hours earned but not credited on the basis of that portion of the straight time hours worked ("STHW") toward the next increment of two thousand eighty (2080) straight time hours required for crediting of PTO. The formula for the earned but not credited payoff is: STHW divided by 2080 multiplied by 40 multiplied by the current hourly pay rate at separation.

D. **Appointment to a Permanent Position.** If a temporary employee is appointed to a permanent position, the credited PTO hours and the earned but not yet credited PTO hours (as described in paragraph 36.2 paragraph C [Payoff at Separation] above) shall be converted to vacation hour and subject to the provisions of this Memorandum of Understanding relating to Vacation. When a temporary employee is appointed to a permanent position, the employee shall be allowed to use the earned paid time off hours during the first six (6) months of employment in a permanent position.

36.3 Temporary Employee Step Placement.

A. **New Employees.** The anniversary date of a new temporary employee is the first day of the calendar month after the calendar month when the employee successfully completes one thousand forty (1040) straight time hours.

B. **Initial Step Placement.** New temporary employees shall generally be appointed at the minimum step of the salary range established for the particular class of position to which the appointment is made. However, the appointing authority may fill a particular position at a step above the minimum of the range if mutually agreeable guidelines have been developed in advance or the Director of Human Resources (or designee) offers to meet confer with the Association on a case by case basis each time prior to formalizing the appointment.

C. **Increments within Range.** The performance of each employee shall be reviewed after the employee has completed an additional two thousand eighty (2080) straight time hours of work. Advancement shall be granted on the affirmative recommendation of the appointing authority, based on satisfactory performance by the employee. The appointing authority may recommend denial of the increment or denial subject to one additional review at some specified date before the next anniversary which must be

set at the time the original report is returned. Except as herein provided, increments within range shall not be granted more frequently than once a year, nor shall more than one (1) step within range increment be granted at one time. Increments shall not be granted to a temporary employee more frequently than after the first one thousand forty (1040) straight time hours worked and after each two thousand eighty (2080) additional straight time hours worked thereafter. In case an appointing authority recommends denial of the within range increment on some particular anniversary date, but recommends a special salary review at some date before the next anniversary the special salary review shall not affect the regular salary review on the next anniversary date. Nothing herein shall be construed to make the granting of increments mandatory on the County. If an operating department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.

36.4 Deputy Public Defender Special Assignment-Exempt & Temporary Employee Grievances.

Deputy Public Defender Special Assignment-Exempt and temporary employees covered by this Memorandum of Understanding may grieve only alleged violation of:

A. Section 1 (Association Recognition);

B. Subsection 5.1 (General Wages), and

C. The terms of this Section 36.

SECTION 37 - LUNCH PERIOD AND REST BREAKS

A. Employees who are in a pay status during their lunch are on call during their lunch period. Employees who are not in a pay status during their lunch are on their own time during their lunch period.

B. Employees shall be entitled to a rest break for each four (4) hours of work. Scheduling of rest breaks shall be determined by management.

C. The terms of this section 37, Lunch Period and Rest Breaks, do not apply to Deputy Public Defenders.

SECTION 38 - ADOPTION

The provisions of this MOU shall be made applicable on the dates indicated and upon approval by the Board of Supervisors. Resolutions and Ordinances, where necessary, shall be prepared and adopted in order to implement these provisions. It is understood that where it is determined that an Ordinance is required to implement any of the foregoing provisions, said provisions shall become effective upon the first day of the month following thirty (30) days after such Ordinance is adopted.

SECTION 39 - SCOPE OF AGREEMENT AND SEVERABILITY OF PROVISIONS

39.1 **Scope of Agreement.** Except as otherwise specifically provided herein, this MOU fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Neither party shall, during the term of this MOU demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of this MOU by mutual agreement. Any past side letters or any other agreements that are not incorporated into or attached to this MOU are deemed expired upon approval of this MOU by the Board of Supervisors. The Association understands and agrees that the County is not obligated to meet and confer regarding wages, hours or conditions of employment during the term of this extended agreement, except as otherwise required by law.

39.2 **Severability of Provisions.** Should any section, clause or provision of this MOU be declared illegal, unlawful or unenforceable, by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this MOU.

39.3 **Personnel Management Regulations.** Where a specific provision contained in a section of this MOU conflicts with a specific provision contained in a section of the Personnel Management Regulations, the provision of this MOU shall prevail. Those provisions of the Personnel Management Regulations within the scope of representation which are not in conflict with the provisions of this MOU and those provisions of the Personnel Management Regulations which are not within the scope of representation shall be considered in full force and effect.

39.4 **Duration of Agreement.** This Agreement will continue in full force and effect from July 1, 2018 to and including June 30, 2022. Nothing herein shall be interpreted or applied in a manner that precludes or impairs in any manner the retroactive implementation of provisions of this Agreement for which an effective date prior to adoption by the Board of Supervisors is expressly provided.

SECTION 40 - FAIR LABOR STANDARDS ACT PROVISIONS

The Fair Labor Standards Act, as amended, may govern certain terms and conditions of the employment of employees covered by this MOU. It is anticipated that compliance with the Act may require changes in some of the County policies and

practices currently in effect or agreed upon. If it is determined by the County that certain working conditions, including but not limited to work schedules, hours of work, method of computing overtime, overtime pay entitlements or use, must be changed to conform with the Fair Labor Standards Act, such terms and conditions of employment shall not be controlled by this MOU but shall be subject to modification by the County to conform to the federal law, without further meeting and conferring. The County shall notify Association and meet and confer with the Association regarding the implementation of such modifications.

SECTION 41 – SAFETY IN THE WORKPLACE

The County shall expend every effort to see to it that the work performed under the terms and conditions of this MOU is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations. The Department shall have a standing committee to address all issues related to employee safety, including the issuance of defensive tools. The committee shall be empowered to make recommendations directly to the Public Defender related to employee safety. The Committee shall consist of two representatives appointed by the Public Defender, two representatives appointed by the Association, and a representative of the County's Risk Management Office to be invited to sit as needed as a non-decision making consultant. The deliberations of this Committee shall not be construed as meeting the requirements to meet and confer separately with the Association regarding any matter related to wages, hours, or working conditions.

SECTION 42 - MISCELLANEOUS PROVISIONS

42.1 **Professional Advisory Committee.** The Professional Advisory Committee shall be continued. Said committee shall be composed of not more than two (2) employee representatives appointed by the Association and two (2) department representatives and shall meet at the request of either party, within a reasonable period of time.

42.2 **Deferred Compensation.**

A. Employees represented by the Association will be eligible to participate in the County's Deferred Compensation Plan. The County will contribute eighty-five dollars ($85) per month to the deferred compensation accounts of all employees in the Public Defenders' Unit who participate in the County's Deferred Compensation Plan. To be eligible for this contribution, qualifying employees must:

1. Complete a County interest form and return it to the Benefits Service Unit,

2. Deposit the Qualifying Base Contribution Amount indicated below in his/her deferred compensation account, and

3. Maintain a minimum monthly contribution to the deferred compensation plan in the amount indicated below:

Current Monthly	Qualifying Base Contribution Amount Current	Monthly Base Contribution Amount For Maintaining Incentive Eligibility
$2,500 and below	$250	$50
$2,501 - 3,334	$500	$50
$3,335 - 4,167	$750	$50
$4,168 - 5,000	$1000	$50
$5,001 - 5,834	$1500	$100
$5,835 - 6,667	$2000	$100
$6,668 & Above	$2500	$100

B. Only those contributions made to the Deferred Compensation Program as of the date the employee signs the County interest form qualify under the program as the "Qualifying Base Contribution Amount". If for any reason an employee's monthly contribution falls below the minimum amount required, the employee is no longer eligible for the County's eighty-five dollar ($85) per month contribution and he/she must re-qualify for the contribution by again satisfying the above listed criteria.

C. **Special Benefit for Permanent Employees Hired on and after March 1, 2011:**

1. Beginning on June 1, 2011, and for the term of this MOU, the County will contribute one hundred and fifty dollars ($150) per month to an employee's account in the Contra Costa County Deferred Compensation Plan, or other tax-qualified savings program designated by the County, for employees who meet all of the following conditions:

   a. The employee must be hired by Contra Costa County on or after March 1, 2011.

   b. The employee must be appointed to a permanent position. The position may be either full time or part time, but if it is part time, it must be designated, at a minimum, as 20 hours per week.

   c. The employee must have been employed by Contra Costa County for at least 90 calendar days.

   d. The employee must contribute a minimum of twenty-five dollars ($25) per month to the Contra Costa County Deferred Compensation Plan, or other tax-qualified savings program designated by the County.

e. The employee must complete and sign the required enrollment form(s) for his/her deferred compensation account and submit those forms to the Human Resources Department, Employee Benefits Services Unit.

f. The employee may not exceed the annual maximum contribution amount allowable by the United States Internal Revenue Code.

D. **No Cross Crediting:** The amounts contributed by the employee and the County pursuant to Subsection C do not count towards the "Qualifying Base Contribution Amount" or the "Monthly Base Contribution Amount for Maintaining Incentive Eligibility" in Subsection A. Similarly, the amounts contributed by the employee and the County pursuant to Subsection A do not count towards the employee's $25 per month minimum contribution required by Subsection C.

E. **Maximum Annual Contribution:** All of the employee and County contributions set forth in Subsections A and C will be added together to ensure that the annual maximum contribution to the employee's deferred compensation account does not exceed the annual maximum contribution rates set forth in the United States Internal Revenue Code.

F. **Deferred Compensation Plan – Loan Provision:** On June 26, 2012, the Board of Supervisors adopted Resolution 2012/298 approving an amendment to the Deferred Compensation Plan Loan Program. The Contra Costa County Public Defenders Association (CCCPDA) became eligible to apply for loans through the Contra Costa County Deferred Compensation Program effective June 26, 2012. The following is a summary of the provisions of the loan program:

1. The minimum amount of the loan is $1,000.

2. The maximum amount of the loan is the lesser of 50% of the employee's balance or $50,000, or as otherwise provided by law.

3. The maximum amortization period of the loan is five (5) years.

4. The loan interest is fixed at the time the loan is originated and for the duration of the loan. The loan interest rate is the prime rate plus one percent (1%).

5. There is no prepayment penalty if an employee pays the balance of the loan plus any accrued interest before the original amortization period for the loan.

6. The terms of the loan may not be modified after the employee enters into the loan agreement, except as provided by law.

7. An employee may have only one loan at a time.

8. Payment for the loan is made by monthly payroll deduction.

9. An employee with a loan who is not in paid status (e.g. unpaid leave of absence) may make his/her monthly payments directly to the Plan Administrator by some means other than payroll deduction each month the employee is in an unpaid status (e.g. by a personal check or money order).

10. The Loan Administrator (MassMutual Life Insurance Company or its successor) charges a one-time $50 loan initiation fee. This fee is deducted from the employee's Deferred Compensation account.

11. The County charges a one-time $25 loan initiation fee and a monthly maintenance fee of $1.50. These fees are paid by payroll deduction.

42.3 **State Bar Fingerprinting Requirement.** New California Rule of Court 9.9.5, requires active licensed attorneys in California to be re-fingerprinted by April 30, 2019, without penalty. Employees who are active licensed attorneys may have their fingerprinting done via the Live Scan service in the Human Resources Department at no cost to the employee. If an employee chooses to obtain fingerprinting services from another provider, any costs of such services will be at the employee's sole expense.

SECTION 43 – NON-HEALTHCARE / NON-GENERAL WAGE RE-OPENER

During the months of August through October, 2020, the Association may request to reopen this MOU for the limited purpose of negotiating over a specific and finite list of non-healthcare/non-general wage/non-lump sum issues identified by the Association and agreed upon by the County. The total cost to the County to address the issues that the Association requests to negotiate about during the re-opener will be limited to the Association's share of $2 million that will be allocated among the nine unions of the 2018 Healthcare Coalition. The $2 million will be divided on a per capita basis of total union-represented employees per union as of October 1, 2018. These per capita figures will be provided to the County in one document by the Healthcare Coalition along with the request to reopen the MOU. The $2 million will have a start date no earlier than January 1, 2021.

CONTRA COSTA COUNTY
DEFENDERS' ASSOCIATION

DEPUTY PUBLIC DEFENDER UNIT

ATTACHMENTS

ATTACHMENT A CLASS AND SALARY LISTING

ATTACHMENT B MEDICAL/DENTAL PLANS

ATTACHMENT A

CCC PUBLIC DEFENDERS ASSOCIATION
CLASS AND SALARY LISTING

Effective 7/1/2018

Job code	Class Title	Flex Staff (F)/ Deep Class (D)	Salary Range From	Salary Range To
	CCC PUBLIC DEFENDERS ASSOCIATION UNIT			
25WA	DEPUTY PUBLIC DEFENDER I	F	$6,103.83	$6,103.83
25VA	DEPUTY PUBLIC DEFENDER II	F	$7,872.54	$9,569.12
25TB	DEPUTY PUBLIC DEFENDER III	F	$10,326.13	$12,551.48
25TA	DEPUTY PUBLIC DEFENDER IV	F	$11,393.92	$13,849.38
25W2	DEPUTY PUBLIC DEF-SP ASGMNT-EX		$5,925.32	$5,925.32
	PUBLIC DEFENDER INVESTIGATORS UNIT			
6N75	PUBLIC DEFENDER INVESTIG AIDE		$2,853.41	$3,468.34
6N7A	PUBLIC DEFENDER INVESTIG ASST	F	$2,997.41	$3,643.37
6NWA	PUBLIC DEFENDER INVESTIGATOR I	F	$5,849.55	$7,110.16
6NVA	PUBLIC DEFENDER INVESTIGATR II	F	$6,692.73	$8,135.06
6NVB	SR PUBLIC DEFENDER INVEST AIDE		$4,015.30	$4,880.63

Effective 1/1/2019

Job code	Class Title	Flex Staff (F)/ Deep Class (D)	Salary Range From	Salary Range To
	CCC PUBLIC DEFENDERS ASSOCIATION UNIT			
25WA	DEPUTY PUBLIC DEFENDER I	F	$6,409.02	$6,409.02
25VA	DEPUTY PUBLIC DEFENDER II	F	$8,266.17	$10,047.58
25TB	DEPUTY PUBLIC DEFENDER III	F	$10,842.44	$13,179.05
25TA	DEPUTY PUBLIC DEFENDER IV	F	$11,963.62	$14,541.85
25WB	DEPUTY PUBLIC DEFENDER-FT		$7,795.94	$8,380.75
25W2	DEPUTY PUBLIC DEF-SP ASGMNT-EX		$6,221.59	$6,221.59
	PUBLIC DEFENDER INVESTIGATORS UNIT			
6N75	PUBLIC DEFENDER INVESTIG AIDE		$2,996.08	$3,641.76
6N7A	PUBLIC DEFENDER INVESTIG ASST	F	$3,147.28	$3,825.54
6NWA	PUBLIC DEFENDER INVESTIGATOR I	F	$6,142.02	$7,465.67
6NVA	PUBLIC DEFENDER INVESTIGATR II	F	$7,027.37	$8,541.81
6NVB	SR PUBLIC DEFENDER INVEST AIDE		$4,216.07	$5,124.66

ATTACHMENT B
CCC Public Defenders Association

MEDICAL/DENTAL PLANS
July 1, 2018 through June 30, 2022

Covered Offered

The County offers the following Plans:
Contra Costa Health Plans (CCHP), Kaiser Permanente, Health Net, Delta Dental PPO and Delta Care HMO.

Co-Pays and Co-Insurance

The medical plan co-pays are as follows:

CCHP A:	$0 Office Visit in the RMC Network $0 Preferred Generic RX $0 Preferred Brand RX $0 Non-Preferred Brand RX
CCHP B:	$0 Office Visit in the RMC Network $5 Office Visit in the CPN Network $3 Preferred Generic RX $3 Preferred Brand RX $3 Non-Preferred Brand RX
KAISER PERMANENTE PLAN A:	$10 Office Visit $10 Preferred Generic RX $20 Preferred Brand RX $20 Non-Preferred Brand RX $10 Emergency Room
KAISER PERMANENTE PLAN B:	$500 Deductible Per Person $1000 Deductible Per Family $20 Office Visit Copay (not subject to deductible) $20 Urgent Care Copay (not subject to deductible) $10 Lab & X-ray Copay (not subject to deductible) $10 Preferred Generic RX $30 Preferred Brand RX $30 Non-Preferred Brand RX 10% Co-Insurance After Deductible for Inpatient Hospital, Outpatient Surgical and Emergency Room $3000 per person and $6000 per family Annual Out of Pocket Maximum

KAISER PERMANENTE HDHP	$1500 Deductible Per Person (Single Coverage) $3000 Deductible Per Family 10% Office Visit Coinsurance (After Deductible) 10% Urgent Care Coinsurance (After Deductible) 10% Lab & X-Ray Coinsurance (After Deductible) $10 Generic Rx (After Deductible) $30 Brand-Name Rx (After Deductible) 10% Inpatient Hospitalization Coinsurance (After Deductible) 10% Outpatient Surgery & ER Coinsurance (After Deductible) $3000 per Person Annual Out of Pocket Maximum $6000 per Family Annual Out of Pocket Maximum
HEALTH NET HMO Plan A:	$10 Office Visit $10 Preferred Generic RX $20 Preferred Brand RX $35 Non-Preferred Brand or Generic RX $25 Emergency Room
HEALTH NET HMO Plan B:	$20 Office Visit $50 Urgent Care Visit $1000 Inpatient Hospital Co-pay $500 Out-Patient Surgery Co-pay $100 Emergency Room Co-pay $10 Preferred Generic RX $20 Non-Preferred Brand RX $35 Non-Preferred Brand or Generic RX $2000 per person and $6000 per family Annual Out of Pocket Maximum
HEALTH NET PPO Plan A:	$10 Office Visit in network $5 Preferred Generic RX $5 Preferred Brand RX $5 Non-Preferred Brand or Generic RX $50 Emergency Room Deductible, 10% Co-Insurance

CONTRA COSTA COUNTY
DEFENDERS' ASSOCIATION

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