

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
COUNTY OF SAN DIEGO  
AND THE  
PUBLIC DEFENDER ASSOCIATION OF SAN DIEGO COUNTY**

**PUBLIC DEFENDER (PD) UNIT  
AND  
PUBLIC DEFENDER MANAGEMENT (PM) UNIT**

JUNE 22, 2018 – JUNE 23, 2022

**BOARD OF SUPERVISORS**

District 1 - Greg Cox  
District 2 - Dianne Jacob  
District 3 - Kristin Gaspar  
District 4 - Ron Roberts  
District 5 - Bill Horn

**TABLE OF CONTENTS**

<b><u>PROVISION</u></b>	<b><u>PAGE #</u></b>
ARTICLE 1. PREAMBLE .....	6
ARTICLE 2. ASSOCIATION RIGHTS.....	6
Section 1. Recognition .....	6
Section 2. Payroll Deduction and Association Dues .....	7
Section 3. Association Access .....	7
Section 4. Employee Representatives .....	7
Section 5. Use of County Facilities .....	9
Section 6. Bulletin Boards.....	9
Section 7. Unit Membership List .....	9
Section 8. New Employee Information .....	10
ARTICLE 3. NO DISCRIMINATION.....	10
ARTICLE 4. WAGES AND OTHER RELATED ISSUES.....	10
ARTICLE 5. HOURS OF WORK, PREMIUMS AND COMPENSATION.....	14
Section 1. Hours of Work.....	14
Section 2. Professional Work Day.....	15
Section 3. Temporary Assignment Pay.....	15
Section 4. Calculation of Work Premiums.....	16
Section 5. Bilingual Premium .....	16
ARTICLE 6. PAID LEAVES .....	17
Section 1. Holidays and Holiday Compensation .....	17
Section 2. Vacation.....	18
Section 3. Bereavement Leave .....	23
Section 4. Sick Leave .....	23
Section 5. Injury Leave .....	27
Section 6. Court Leave (Jury Duty) .....	32
Section 7. Educational Leave .....	32
Section 8. Military Leave.....	32
Section 9. Administrative Leave.....	33
Section 10. Catastrophic Leave Program .....	35
Section 11. Professional Time Off .....	36
Section 12. Appeal of Disputes: Paid Leaves .....	37
ARTICLE 7. LEAVE OF ABSENCE WITHOUT PAY .....	37
Section 1. Leave Without Pay with Right of Return.....	37
Section 2. Leave Without Pay without Right of Return.....	38
Section 3. Leave Without Pay - Staff to Elected Official.....	38
Section 4. Cancellation of Leave Without Pay .....	38
Section 5. Voluntary Furlough (Short Term) .....	39
Section 6. Voluntary Furlough (Long Term) .....	39

Section 7.	Family Medical Leave .....	40
Section 8.	Appeal of Disputes: Unpaid Leaves .....	41
ARTICLE 8.	ALLOWANCES FOR WORK-RELATED EXPENDITURES.....	42
Section 1.	Mileage and Use of County Cars .....	42
Section 2.	Parking and Transportation.....	42
Section 3.	Repayment of Specialized Training Expenses.....	43
Section 4.	Educational/Professional Stipend .....	44
Section 5.	Bar Fees .....	44
ARTICLE 9.	EMPLOYEE BENEFITS.....	45
Section 1.	Retirement .....	45
Section 2.	Insurance/Flexible Benefits Plan.....	48
ARTICLE 10.	PERSONNEL PRACTICES.....	54
Section 1.	Layoff Procedure.....	54
Section 2.	Smoking.....	58
Section 3.	Drug and Alcohol Use Policy.....	58
Section 4.	Job Sharing.....	59
Section 5.	Labor Management Committee.....	59
Section 6.	Legal Representation.....	60
Section 7.	Personnel Files .....	60
Section 8.	Employee Recognition Programs.....	61
Section 9.	Personal Security.....	61
ARTICLE 11.	GRIEVANCE PROCEDURE .....	61
Section 1.	Definition.....	61
Section 2.	Filing Deadlines .....	62
Section 3.	Informal Discussion with Employee's Supervisor (Step 1) .....	62
Section 4.	Formal Written Grievance to Employee's Supervisor (Step 2) .....	62
Section 5.	Grievance to Appointing Authority (Step 3) .....	63
Section 6.	Advisory Arbitration of Grievances (Step 4) .....	63
Section 7.	Informal Review by Labor Relations Office (Step 5) .....	63
Section 8.	Selection of Arbitrator .....	63
Section 9.	Duty of Arbitrator .....	64
Section 10.	Payment of Costs .....	64
Section 11.	Effect of Failure of Timely Action .....	64
Section 12.	Employee Independent Representation.....	64
ARTICLE 12.	AGREEMENT, MODIFICATION AND WAIVER.....	65
Section 1.	Agreement .....	65
Section 2.	Waiver.....	65
Section 3.	Meet and Confer .....	65
Section 4.	Modification.....	65
ARTICLE 13.	PROVISIONS OF LAW .....	65

ARTICLE 14. PROHIBITION OF JOB ACTION ..... 65  
ARTICLE 15. IMPLEMENTATION ..... 66  
ARTICLE 16. NEGOTIATION OF SUCCESSOR AGREEMENT ..... 67  
ARTICLE 17. RE-OPENER PROVISIONS..... 67  
ARTICLE 18. DETERMINATION BY THE BOARD OF SUPERVISORS ..... 67

## INDEX

<b><u>ARTICLE TITLE</u></b>	<b><u>PAGE #</u></b>
Administrative Leave .....	33
Advisory Arbitration of Grievances (Step 4) .....	63
Agreement.....	65
Agreement, Modification and Waiver.....	65
Allowances for Work-Related Expenditures .....	42
Anti-Terrorist Campaign Leave .....	23
Appeal of Disputes: Paid Leaves .....	37
Appeal of Disputes: Unpaid Leaves .....	41
Association Access .....	7
Association Rights.....	6
Bar Fees.....	44
Bereavement Leave .....	23
Bilingual Premium .....	16
Bulletin Boards .....	9
Calculation of Work Premiums .....	16
Cancellation of Leave Without Pay .....	38
Catastrophic Leave Program.....	35
Child Care Vacation Exchange .....	21
Court Leave (Jury Duty) .....	32
Definition .....	61
Determination by the Board of Supervisors .....	67
Direct Deposit.....	12
Drug and Alcohol Use Policy .....	58
Duty of Arbitrator .....	64
Educational Leave.....	32
Educational/Professional Stipend.....	44
Effect of Failure of Timely Action.....	64
Employee Benefits .....	45
Employee Independent Representation .....	64
Employee Recognition Programs .....	61
Employee Representatives .....	7
Family Medical Leave.....	40
Filing Deadlines.....	62
Formal Written Grievance to Employee's Supervisor (Step 2) .....	62
Grievance Procedure .....	61
Grievance to Appointing Authority (Step 3) .....	63
Holidays and Holiday Compensation.....	17
Hours of Work .....	14
Hours of Work, Premiums and Compensation .....	14
Implementation.....	66
Informal Discussion with Employee's Supervisor (Step 1) .....	62
Informal Review by Labor Relations Office (Step 5).....	63
Injury Leave.....	28

Insurance/Flexible Benefits Plan .....	48
Job Sharing .....	59
Labor Management Committee .....	59
Layoff Procedure .....	54
Leave of Absence Without Pay .....	37
Leave Without Pay - Staff to Elected Official .....	38
Leave Without Pay with Right of Return .....	37
Leave Without Pay without Right of Return .....	38
Legal Representation .....	60
Meet and Confer .....	65
Mileage and Use of County Cars .....	42
Military Leave .....	32
Modification .....	65
Negotiation of Successor Agreement .....	67
New Employee Information .....	10
No Discrimination .....	10
Paid Leaves .....	17
Parking and Transportation .....	42
Payment of Costs .....	64
Payroll Deduction and Association Dues.....	7
Personal Security .....	61
Personnel Files .....	60
Personnel Practices .....	54
Preamble .....	6
Professional Time Off .....	36
Professional Work Day .....	15
Prohibition Of Job Action .....	65
Provisions Of Law .....	65
Quality First Program .....	13
Recognition .....	6
Re-Opener Provisions .....	67
Repayment of Specialized Training Expenses .....	43
Retirement.....	45
Selection of Arbitrator .....	63
Sick Leave.....	23
Smoking .....	58
Temporary Assignment Pay .....	15
Unit Membership List.....	9
Use of County Facilities.....	9
Vacation .....	18
Voluntary Furlough (Long Term) .....	39
Voluntary Furlough (Short Term).....	39
Wages and Other Related Issues .....	10
Waiver .....	65

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
COUNTY OF SAN DIEGO  
AND THE  
PUBLIC DEFENDER ASSOCIATION OF SAN DIEGO COUNTY**

**PUBLIC DEFENDER (PD) UNIT  
AND  
PUBLIC DEFENDER MANAGEMENT (PM) UNIT**

**JUNE 22, 2018 – JUNE 23, 2022**

---

**ARTICLE 1. PREAMBLE**

THIS MEMORANDUM OF AGREEMENT is entered into by the County of San Diego, said political subdivision hereafter designated as "County" and the Public Defender Association of San Diego County, hereafter designated as "Association" as a mutual agreement of those wages, hours, and conditions of employment which are to be in effect during the period from 8:00 a.m. on June 22, 2018 through 5:00 p.m. on June 23, 2022 for those employees working in the representation units referred to in Article 2, Section 1 hereof.

**ARTICLE 2. ASSOCIATION RIGHTS**

**Section 1. Recognition**

- A. The County of San Diego recognizes the Association as the sole and exclusive representative for the Public Defender (PD) and Public Defender Management (PM) representation units, consisting of classes listed in the Appendix of this Agreement and such classes as may be added to or deleted from the units during the term of this Agreement.
- B. The County will distribute to each new employee entering the unit the following written information:

"The Public Defender Association of San Diego County, pursuant to the provisions of the San Diego County Labor Relations Ordinance, has been declared the bargaining representative for your job classification concerning wages, hours and working conditions that result from meeting and conferring in good faith between the

## ARTICLE 2. ASSOCIATION RIGHTS (Cont'd)

County and the Association. These wages and benefits are contained in the mutual agreement, copies of which will be made available to you by the Association.

An Association employee representative may request to speak with you, personally, to tell you about the Association and its role as the recognized certified representative for your job classification. To the greatest extent possible, this individual contact should be done during non-duty hours. The Association is a voluntary organization of attorneys from the Departments of the Public Defender and Alternate Public Defender. After receiving any necessary information, the decision to become a member of the Association will be yours to make."

### Section 2. Payroll Deduction and Association Dues

In accordance with the rules and regulations of the Auditor and Controller, approved by the Board of Supervisors, it is agreed that Association dues as are properly requested and lawfully permitted shall be deducted by the County from the salary of each employee covered hereby who files with the County a written authorization requesting that such deductions be made. The County shall discontinue deducting such dues upon a written authorization filed by an employee requesting such discontinuance.

### Section 3. Association Access

The Association shall provide and maintain with the County's Labor Relations Division a current list of the names of all authorized representatives of the Association. An authorized representative shall have the right to contact an individual employee represented by the Association in a County facility during the employee's work hours on matters concerning wages, hours and other terms and conditions of employment. Such a representative shall make arrangements with the County official responsible for the operation of the County facility prior to entering the work location of the employee. The Association official shall have the right to make arrangements for a contact location removed from the work area of the employee.

### Section 4. Employee Representatives

#### A. Purpose

The County recognizes the need and affirms the right of the Association to designate employee representatives from the employees in the bargaining unit. It is agreed that the Association in appointing such employee representatives does so for the purpose of promoting an effective relationship between the County administration and employees by helping to settle problems at the lowest level of supervision.



## ARTICLE 2. ASSOCIATION RIGHTS (Cont'd)

### B. Role of Employee Representative and Supervisor

The employee representative recognizes that the supervisor is a key person in the department and, as such, is responsible to higher management for the quality and quantity of the work. The employee representative understands that the employee representative's function does not relieve the representative from conforming to all rules of conduct and standards of performance established by law, regulation, County or department policy or Memorandum of Agreement.

### C. Selection of Employee Representative

The number of representatives shall be all members of the Board of Directors of the Association. The Association shall reserve the right to designate the method of selection of employee representatives. The Association shall notify the appointing authority in writing of the names of the employee representatives and the area they represent. The appointing authority will be notified in writing by the Association of any subsequent changes regarding employee representatives and who they are replacing.

### D. Duties and Responsibilities of Employee Representatives

The following functions constitute the complete duties and responsibilities of employee representatives:

1. After obtaining supervisor permission, an employee representative will be permitted to leave his/her normal work area during on-duty time not to exceed four (4) hours per week in order to assist in presentation of a grievance. The representative's workload may be adjusted to the extent the appointing authority feels it is appropriate. To obtain permission to investigate a grievance on on-duty time, the representative shall advise the supervisor of the grievant of his/her investigation of the facts and the general nature of the grievance. The representative is permitted to discuss the problem with all employees immediately concerned and, if appropriate, to attempt to achieve settlement with the supervisory personnel involved. Clients and outside interested parties will not be contacted by employee representatives as part of the grievance process. The employee may be represented by an employee representative at such time as a grievance is reduced to writing.

Such on-duty time described above will be authorized only during the employee's regularly scheduled work period. No overtime for such on-duty time will be authorized.

2. If, in the judgment of the supervisor, because of the necessity of maintaining an adequate level of services, permission cannot be granted immediately to the employee representative in order to present or

## ARTICLE 2. ASSOCIATION RIGHTS (Cont'd)

investigate a grievance during on-duty time, such permission shall be granted by the supervisor no later than the next two (2) working days from the date the employee representative was denied permission.

### E. Limitations on Time Off

An employee representative shall not be permitted time off from his/her work assignments for the purpose of conducting general Association business.

### Section 5. Use of County Facilities

County facilities may be made available for use by employees and the Association. Such use shall not occur during regular working hours other than the lunch period. Application for such use shall be made to the management person under whose control the facility is placed. Meetings of an authorized representative of the Association and a group of employees shall not be permitted during working hours excepting the lunch hour.

### Section 6. Bulletin Boards

Upon written request from the Association, the County will provide adequate bulletin board space at reasonable locations for the exclusive use of the Association. The bulletin boards shall only be used for posting:

- A. Association election materials and election results.
- B. Association official business reports of the Board of Directors or Committees, or representatives reports and notices.
- C. Association news bulletins and meeting notices.
- D. Association membership benefits, programs, promotional information.
- E. Other written materials which have been approved for posting by the departments.

### Section 7. Unit Membership List

The departments shall provide the Association, within thirty (30) calendar days from the effective date of this agreement and at least each ninety (90) days thereafter, an alphabetized list of employees subject to this Memorandum of Agreement, including employee's name, employee number, home telephone number (an employee reserves the right not to have the home telephone number provided), class title, class number, work location and work telephone number. The departments shall also provide the same information within five (5) working days of the hiring of new employees or the promotion or demotion of existing employees. The departments shall also provide the

## ARTICLE 2. ASSOCIATION RIGHTS (Cont'd)

Association at least every thirty (30) days with an alphabetized list of employee names and work telephone numbers.

### Section 8. New Employee Information

Management will provide each new employee a printed card, supplied by the Association, containing the following information:

- A. Your classification is represented by the Public Defender Association.
- B. The Association has been certified to meet and confer in good faith with the County on all matters pertaining to your wages, hours of work, employee benefits, and conditions of employment.
- C. A list of employee representatives and officers with phone numbers and work locations.
- D. PDA will be notified of the hiring and orientation of new members and be given the opportunity to meet with new members during the Department's orientation process.

## ARTICLE 3. NO DISCRIMINATION

In receiving the rights afforded by this Agreement, no person shall in any way be favored or discriminated against to the extent prohibited by law because of political or religious opinions or affiliations, or sexual orientation, or because of racial or national origin, or because of age or sex or physical disability.

## ARTICLE 4. WAGES AND OTHER RELATED ISSUES

### A. Wages

1.

Fiscal Year 2017-2018:	3% wage increase effective June 23, 2017
Fiscal Year 2018-2019:	3% wage increase effective June 22, 2018
Fiscal Year 2019-2020:	3% wage increase effective June 21, 2019
Fiscal Year 2020-2021:	2% wage increase effective June 19, 2020
Fiscal Year 2021-2022:	2% wage increase effective June 18, 2021

2. One-time payment:

- All regular employees shall receive a one-time monetary payment equivalent to 1% of the employee's annual salary effective June 23, 2017.

#### ARTICLE 4. WAGES AND OTHER RELATED ISSUES (Cont'd)

To be eligible for this payment, the employee must have paid service in FY 2016/2017. This payment will be included in their regular paycheck. An employee is not eligible to receive the one-time payment if they are no longer employed by the County on the date of payment.

An employee shall not be entitled to the one-time monetary payment above if they received a one-time payment under the terms of a different bargaining unit for the same fiscal year.

In addition to the 1%, a one-time lump sum monetary payment of **\$750** for all regular employees who have paid service during Fiscal Year 2016-2017. Payment to be paid on the payday of payroll 02 (July 28, 2017). Part-time employees shall receive a pro-rated amount according to their standard hours.

- **Effective June 22, 2018:** All regular employees shall receive a one-time lump sum monetary payment equivalent to 1% of the employee's annual salary who has paid service Fiscal Year 2017-2018. Payment to be paid on the payday of payroll 02 (July 27, 2018). Part-time employees shall receive a pro-rated amount according to their standard hours.
- **Effective June 21, 2019:** All regular employees shall receive a one-time monetary payment equivalent to 1% of the employee's annual salary who has paid service Fiscal Year 2018-2019. Payment to be paid on the payday of payroll 02 (July 26, 2019). Part-time employees shall receive a pro-rated amount according to their standard hours.
- **Effective June 19, 2020:** All regular employees shall receive a one-time monetary payment equivalent to 2% of the employee's annual salary who has paid service Fiscal Year 2019-2020. Payment to be paid on the payday of payroll 02 (July 24, 2020). Part-time employees shall receive a pro-rated amount according to their standard hours.
- **Effective June 18, 2021:** All regular employees shall receive a one-time monetary payment equivalent to 2% of the employee's annual salary who has paid service Fiscal Year 2020-2021. Payment to be paid on the payday of payroll 02 (July 23, 2021). Part-time employees shall receive a pro-rated amount according to their standard hours.
- **Early Signing/Extension Incentive Pay:** A one-time monetary payment of \$750 for all regular employees. To be eligible for this early signing/extension incentive pay, an employee must have paid service between June 24, 2016, and adoption by the Board of Supervisors. Payment to be made the pay period following ratification and approval by the Board of Supervisors. Part-time employees shall receive a pro-rated amount according to their standard hours.

## ARTICLE 4. WAGES AND OTHER RELATED ISSUES (Cont'd)

- The one-time lump sum payments will be included in the employees' regular paycheck. An employee is not eligible to receive the one-time lump sum payment if they terminate before the first day of the payroll 02. An employee shall not be entitled to the one-time lump sum monetary payment above if they received a one-time payment under the terms of a different bargaining unit for the same fiscal year. If an eligible employee is on paid or unpaid leave, the payment will be made when the employee returns to active County service.

### B. Direct Deposit

All employees hired on or after July 1, 2001, must maintain valid arrangements for the direct deposit of their paychecks via electronic fund transfer into the financial institution of their choice using forms approved by the Auditor and Controller.

### C. Employed July 1, 1974 or subsequently

Subject to the provisions of D and E and below, every employee in the Classified Service, employed on July 1, 1974, or subsequently, having a permanent or interim appointment as a result of blanketing-in, suspension of competitive examination or certification from an eligible list, who has served in his/her class for at least twenty-six (26) weeks at the step 1, or at least fifty-two (52) weeks at the 2, 3 or 4 steps, shall advance on the first day of the next succeeding biweekly pay period to the next higher step within the range prescribed herein for his/her class.

Every employee promoted or hired on or after July 30, 2013 who has served in his/her class for at least fifty-two (52) weeks at each step, shall advance on the first day of the next succeeding biweekly pay period to the next higher step within the range prescribed herein for his/her class.

### D. Step Advancement Transition Plan

Effective September 27, 1996, newly hired employees and employees who receive a step advancement pursuant to paragraph C above, shall at the time of appointment for newly hired employees and at the time the step advancement becomes effective for employees receiving step advancements, be subject to the provisions of paragraph E below for purposes of any further step advancements.

### E. Performance-Based Step Advancement

Employees covered by this Agreement may not advance to the next higher step if, for the preceding performance rating period, the employee's overall performance was rated at a below standard level (i.e., unsatisfactory, improvement needed).

ARTICLE 4. WAGES AND OTHER RELATED ISSUES (Cont'd)

Employees may advance to the next higher step if, for the preceding performance-rating period, the employee's overall performance was rated standard or higher.

Pursuant to Civil Service Rule 5, an employee who has received a below standard rating shall receive, if requested by the employee, a supplemental appraisal midway through the employee's next appraisal cycle. This supplemental appraisal shall be dated from the date of the previous rating period and will adjust the beginning date of the next appraisal. The administrative appeal process set forth in Civil Service Rule 5.1.6 shall be available to employees who have been rated below standard and thereby denied a step increase.

F. Quality First Program

A "Quality First" performance based incentive plan may be instituted in County departments. The purpose of Quality First will be to ensure the achievement of quality service and customer satisfaction.

The Quality First Program is a group incentive plan independent of the wage schedule. It shall not result in wages being lowered.

The Association will have input into the design and review of the Quality First performance teams and measures and to address Quality First operational issues through the Labor/Management Committee.

The establishment, disestablishment, administration and regulation of Quality First programs shall be at the discretion of the County and shall not be subject to appeal under the Grievance Procedure of this Agreement.

Quality First programs are separate from and in addition to other current discretionary award programs for County employees.

The Quality First program provides up to two percent (2.0%) in temporary incentive pay annually for success in achieving at least two percent (2.0%) savings through the program. To reward a team of employees whose efforts result in surpassing two percent (2.0%) in goals/savings, employees can receive, in a temporary salary adjustment an additional increase on a fifty-fifty (50/50) basis (\$.50 on the dollar) up to a maximum of four percent (4.0%) in accordance with the following:

<b>SAVINGS</b>	<b>ANNUALIZED TEMPORARY WAGE RATE % INCREASE</b>
<b>Aggregate Amount Saved</b>	<b>Total Potential Employee Payout</b>
2.0%	2.0%
3.0%	2.5%

ARTICLE 4. WAGES AND OTHER RELATED ISSUES (Cont'd)

4.0%	3.0%
5.0%	3.5%
6.0% maximum	4.0% maximum

Employee Eligibility Criteria:

To be eligible to participate in the Quality First Program requires that, during each applicable plan year:

- a. The employee must have begun his/her employment with the County on or before December 31;
- b. The employee must not have received a sub-standard performance evaluation or equivalent rating; and
- c. The employee must not have received final disciplinary action, which includes any County appeal or County review procedures including the Civil Service Commission. Disciplinary actions are defined as those formal actions that are recognized by the Civil Service Rules, Section 7.3.

ARTICLE 5. HOURS OF WORK, PREMIUMS AND COMPENSATION

Nothing in the Agreement shall be construed as a guarantee or limitation of the number of hours to be worked per day, per pay period, or for any other period of time including overtime.

Section 1. Hours of Work

This Section establishes the County standard for hours of work. Biweekly compensation prescribed in the Appendix is based on a full-time schedule of eighty (80) working hours in each biweekly pay period. Paid time is standard duty hours worked plus any paid leave.

Standard Work Periods

Work Hours/Day: The work hours are 8:00 a.m. to 5:00 p.m. exclusive of a one (1) hour unpaid lunch period. The workday is eight (8) consecutive hours of work, exclusive of the lunch period, in a consecutive twenty-four (24) hour period. Work hours/days which deviates from these standards are considered as "non-standard" work hours/days.

Work Period: The work period consists of two (2) five-day work weeks for a total of ten (10) work days which total (80) hours and includes four (4) days of rest, consisting of two (2) two-day rest periods during the payroll period described below.

## ARTICLE 5. HOURS OF WORK, PREMIUMS AND COMPESATION (Cont'd)

Payroll Period: The payroll period begins on the Friday which is the first day of the pay period and ends on a Thursday which is the last day of the pay period, and consists of ten (10) standard work days and four (4) days of rest during the fourteen (14) consecutive day payroll period.

### Section 2. Professional Work Day

The County recognizes the professionalism of the employees represented by the Association. Such salaried employees current compensation includes compensation for periods of authorized absence from work of less than one (1) full regularly scheduled work day and such absences shall not be charged against any leave balances.

Absences from work for less than one (1) full day require pre-approved authorization, either orally or in writing, by the Appointing Authority or the Appointing Authority's designee.

Under extenuating circumstances, authorization must be obtained immediately following the absence.

### Section 3. Temporary Assignment Pay

When the appointing authority determines it is necessary to cover a position from which the incumbent is absent or which is temporarily vacant for any reason, the appointing authority may assign an employee in a lower class to temporarily perform the duties of the vacant position in a higher class in accordance with the following:

- A. The Director, Department of Human Resources, has approved the appointing authority's temporary assignment.
- B. The employee proposed to be assigned to the higher class is qualified to perform the duties of the higher class.
- C. The employee will remain in his/her current class during the time he/she is assigned to perform the duties of the higher class.
- D. The assignment must be for over four (4) weeks, but must not exceed twenty-six (26) weeks.
- E. The employee so assigned shall be compensated by receiving, in addition to the base rate of compensation which has been established for his/her current class, a "bonus rate." This bonus rate shall be the difference between the rate of compensation for his/her current class and that of the higher class.
- F. The amount of the "bonus rate" in Paragraph E is determined by:



## ARTICLE 5. HOURS OF WORK, PREMIUMS AND COMPESATION (Cont'd)

1. Equating the employee's current hourly rate with the same hourly rate in the higher class and advancing one step; or
2. If the higher class does not contain an hourly rate that equates with the employee's current hourly rate, then the "bonus rate" shall be determined by setting the compensation one step above the next highest hourly rate in the higher classification; provided, however, that the higher rate of compensation shall be set at the entry step when the entry step of the higher class exceeds the top step of the current class by a percentage difference of five percent (5%) or more when rounded to the nearest tenth (1/10th) of a percent.

### Section 4. Calculation of Work Premiums

Work premiums designated as bonus rates and which are stated as a percentage, shall be added to the employee's basic hourly rate of compensation. When more than one premium is applicable, each premium shall separately be added to the employee's basic hourly rate. Premiums shall not be pyramided or compounded.

Work premiums designated as biweekly dollar amounts shall be added in a lump sum to the employee's biweekly compensation without regard for the employee's basic hourly rate.

Premiums so designated shall be paid for time worked only and shall not be applied towards paid time off or to terminal payoff.

### Section 5. Bilingual Premium

The appointing authority may require a qualified employee to perform bilingual duties in positions which have been identified and designated as requiring such bilingual skills. In order to ensure an adequate level of bilingual proficiency, the Director, Department of Human Resources may require periodic evaluation of incumbents receiving bilingual premium.

Class A: The rate for Class A bilingual skill is thirty-two dollars and thirty cents (\$32.30) biweekly. To qualify for this rate, the employee must be assigned to a position designated as requiring bilingual skills fifty percent (50%) or more of the time or forty (40) hours or more in an eighty (80) hour biweekly pay period or to a position designated as requiring technical bilingual skills (reading, writing, translation). This fifty percent usage requirement shall mean the actual time spent conversing or interpreting in a second language.

Class B: The rate of Class B bilingual skills is sixteen dollars and fifteen cents (\$16.15) biweekly. To qualify for this rate, the employee must be assigned to a position designated as requiring bilingual skills

## ARTICLE 5. HOURS OF WORK, PREMIUMS AND COMPESATION (Cont'd)

less than fifty percent (50%) of the time or thirty-nine (39) hours or less in an eighty (80) hour biweekly pay period. This fifty percent (50%) or less usage requirement shall mean the actual time spent conversing or interpreting in a second language.

For purposes of terminal pay, bilingual premium shall not be computed in the employee's base wage rate.

## ARTICLE 6. PAID LEAVES

### Section 1. Holidays and Holiday Compensation

The County shall observe the following holidays:

1. Independence Day shall be observed on July 4
2. Labor Day, First Monday in September
3. Veterans Day, November 11
4. Thanksgiving Day, Fourth Thursday in November
5. Day after Thanksgiving, Fourth Friday in November
6. Christmas Day, December 25
7. New Year's Day, January 1
8. Martin Luther King, Jr. Day, Third Monday in January
9. Washington's Birthday, Third Monday in February
10. Cesar Chavez Day, March 31
11. Memorial Day, Last Monday in May

In addition, any other day of national mourning or celebration provided that it has been proclaimed by the Board of Supervisors and provided that the Board directs the closure of all County offices for public service which are normally closed on holidays. Any such holiday shall be granted only to those employees who are regularly scheduled to work on the day for which such holiday is proclaimed by the Board.

#### A. Floating Holiday Bucket

In lieu of Admissions Day and the Columbus Day holiday, all employees who have paid service in Payroll 02, shall be entitled to one-fifth (1/5) the employee's regularly scheduled biweekly hours, not to exceed sixteen (16) hours of floating holiday time. This time may be taken beginning in Payroll 03 at a time agreeable to both employee and the appointing authority.

An employee may accumulate a maximum of twenty-four (24) hours of floating holiday time. Any balance that exceeds twenty-four (24) hours will automatically be reduced to the 24 hour maximum accrual limit.

These holidays are not subject to terminal leave pay.

## ARTICLE 6. PAID LEAVES (Cont'd)

### B. Eligibility for Holidays

Only employees paid at a biweekly rate are entitled to paid holidays. Employees who are on paid status the entire work day before as well as the entire work day after a holiday shall receive compensation for eight (8) hours of holiday time, which time shall be considered as hours worked. Permanent part-time employees' compensated holiday time shall be equivalent to one-tenth (1/10th) the number of regularly scheduled hours in that employee's biweekly pay period during which the holiday occurred.

### C. Holiday Occurring on a Scheduled Day Off

Except for holidays occurring on a Saturday or Sunday, if a holiday falls on an employee's regularly scheduled day off, the employee will receive the equivalent of one-tenth (1/10th) the number of regularly scheduled hours in the employee's biweekly pay period. Sunday holidays will be observed on Monday. Saturday holidays will be observed on Friday.

### D. Holidays for Employees Assigned to the Courts

The purpose of this provision is to achieve consistency in the scheduling of holidays for County employees assigned to work in the courts with those holidays observed by the courts and shall not be construed to provide greater or lesser compensation for, or number of holidays than received each fiscal year by employees assigned to work in other County departments.

1. Employees assigned to the courts shall receive those specific holidays observed by the courts even if these holidays are not observed by other County offices and departments; and
2. Employees assigned to the courts shall not receive any holiday observed by County offices and departments which is not also observed by the courts.
3. Notwithstanding Paragraph D.1, in the event a holiday is observed by the courts that is not also observed by the County, the appointing authority may permit County employees who are authorized to take the day off, to use paid or unpaid leave on the court holiday.

## Section 2. Vacation

Vacation is paid time off earned by eligible employees.

### A. Eligibility

## ARTICLE 6. PAID LEAVES (Cont'd)

To earn vacation credit, or become entitled to take vacation, an employee must be paid at a biweekly rate.

An employee's vacation earned becomes available for use as it is accrued, and may be used in the payroll period following the payroll period in which it was earned. However, no vacation credits shall be eligible for terminal payment until the employee has completed a minimum of one (1) year (twelve (12) months) of continuous paid service in his/her current employment except when the separation is because of layoff.

### B. Earnings

Effective September 27, 1996 and subject to Paragraph D. below, eligible employees earn vacation credit as follows:

<b>Years of Continuous Service During Present Employment</b>	<b>Vacation Credit For Each Hour of Regularly Scheduled Paid Service</b>	<b>Hour/Day Approx. Equivalent For Full-Time Employees Over One Year (26 Biweekly Pay Periods)</b>
Less than 5	4.615% of working hr	96 hrs/12 work days
5 to 15	6.548% of working hr	136 hrs/17 work days
15 or more	8.461% of working hr	176 hrs/22 work days

The rate of earned vacation shall be changed at the beginning of the pay period following entitlement to such change. Vacation credit is accrued and may be used in tenths of hours.

When an employee is reinstated after layoff or disability retirement, the continuous service date held immediately prior to the layoff or disability shall be used for vacation computation.

Paid holidays immediately preceding, immediately following or wholly within the vacation period shall not be charged as vacation except that when the eligible employee is paid the monetary value of vacation or granted pre-retirement terminal vacation such paid holidays shall be charged as vacation.

### C. Granting Requests, Schedules

The appointing authority determines the time and duration of vacation taken by the employee. Therefore, the advance consent of the appointing authority is required to be obtained by an employee prior to using vacation.

Vacation schedules shall be arranged with particular regard to the needs of the service, and, so far as possible, with the wishes of the employee.

### D. Maximum Allowable Accumulation

## ARTICLE 6. PAID LEAVES (Cont'd)

The effective date of Section 2.D. will be January 3, 1997.

1. The balance of an employee's vacation credits of record (including vacation earned but not credited), hereinafter, "accumulation", shall not exceed an amount equal to twice the annualized current vacation earnings rate of the employee. This is the employee's "Maximum Balance."
2. In any payroll period, an employee shall earn vacation equal to the lesser of:
  - a. The earnings specified in B., above; or,
  - b. The amount of earnings necessary which, when added to the employee's existing accumulation, will cause the accumulation to equal the employee's Maximum Balance.
3. If, at the end of any payroll period an employee's accumulation equals or exceeds the employee's Maximum Balance, no vacation credits shall be earned by the employee for that payroll period.
4. The County shall provide one-time notification to employees who have reached eighty percent (80%) of their Maximum Balance. Employees who subsequently reduce their balance below eighty percent (80%) will be notified again on a one-time basis upon reaching eighty percent (80%) of their Maximum Balance.

### E. Vacation Credit Paydown

An appointing authority may authorize a portion of an employee's vacation credits to be converted to a cash payment under the following circumstances:

1. The employee's vacation balance has exceeded an amount equal to eighty percent (80%) of his/her Maximum Balance; and,
2. The employee is, or imminently will be, foregoing vacation credit accruals due to reaching the Maximum Balance; and
3. The employee has used one-half (50%) of his/her authorized annualized vacation accrual for the period inclusive of Payroll 07 of the previous fiscal year and Payroll 06 of the current fiscal year; and
4. The employee has requested, and been denied, use of vacation prior to reaching their Maximum Balance.

## ARTICLE 6. PAID LEAVES (Cont'd)

5. The paydown shall be limited to an amount which will leave a remaining balance of no less than seventy-five percent (75%) of the Maximum Balance.
6. When an employee is to be paid or credited the monetary value of vacation, such compensation shall be made on the basis of the employee's basic rate of pay at that time plus those applicable premiums or bonuses which are being paid as part of the employee's hourly rate at the time of separation exclusive of any biweekly fixed dollar amount premiums and any other premiums specifically identified as excluded from terminal payout.

### F. Child Care Vacation Exchange

Vacation credits may be transferred by an employee to his/her spouse or Registered Domestic Partner if the employee is married to, or a Registered Domestic Partner of another employee in this unit and such couple are the parents of a child or are jointly adopting a child, for the purposes of maternity leave or child care purposes in accordance with departmental policies, upon the request of both the receiving employee and the transferring employee and upon approval of the employees' appointing authority, under the following conditions:

1. Transfers shall be allowed between married couples or between Registered Domestic Partners in the Public Defender Association of San Diego County only for the purposes stated above.
2. The receiving employee is required to be absent from work due to the birth of a child or due to the joint adoption of a child or for child care purposes.
3. Each transfer must be for a minimum of eight (8) hours and in whole hour increments thereafter.
4. The total vacation credits received by an employee shall normally not exceed five hundred and twenty (520) hours; however, if approved by his/her appointing authority, the total vacation credits may be up to one thousand and forty (1040) hours. Total vacation credits in excess of one thousand and forty (1040) hours will be considered on a case-by-case basis by the appointing authority subject to the approval of the Chief Administrative Officer.
5. The transfers are irrevocable, and will be indistinguishable from other vacation credits belonging to the receiving employee. Transfers will be subject to all taxes required by law.
6. The transfers shall be administered according to the rules and regulations of the Auditor and Controller, and made on a form prescribed by the

## ARTICLE 6. PAID LEAVES (Cont'd)

Auditor and Controller. Approvals of the receiving and donating employees and the appointing authority will be provided for on each form.

7. This program is not subject to the Grievance Procedure of the Memorandum of Agreement between the County of San Diego and the Public Defender Association of San Diego County.
8. Transferred vacation credits will be converted according to the following formula:

$$\frac{\text{Donated Hours x Donor's Hourly Pay Rate}}{\text{Recipient's Hourly Pay Rate}} = \text{Hours Received}$$

### G. Extraordinary Case Load Exception

Notwithstanding Sections 2.D and E, above, an employee who is assigned as defense for a major, complex, high profile case for which the trial or trial related activities extends over twelve (12) continuous months or more and results in the employee not receiving vacation accruals because of meeting or exceeding the maximum vacation balance, may have such vacation restored by the appointing authority with the approval of the Chief Administrative Officer.

Such restoration must be requested within one (1) year of conclusion of the "high profile" case. In addition, no restoration shall be made until the employee has reduced his/her maximum balance within this same one (1) year period to allow the restoration to be made without exceeding the employee's maximum allowable accumulation.

### H. Vacation Credits at Separation from County Service

At the time an employee is separated from the County service, the monetary value of all vacation entitlement shall be paid. An employee retiring from County service may be granted a terminal vacation in lieu of being paid its monetary value. An employee on terminal vacation shall not earn any vacation credit. The vacation payoff shall be computed in accordance with Section 2.E.6 above.

All employees shall participate in the County's 401 (a) Terminal Pay Plan. However, only the terminal paychecks (including unused vacation) of those employees who have reached the age of fifty-five (55) shall be placed into the Plan. These terminal paychecks shall be placed into the Plan on a pre-tax basis in accordance with the Plan, all applicable laws and all rules and regulations applicable to the Plan.

### I. Injury Leave Exception

## ARTICLE 6. PAID LEAVES (Cont'd)

Notwithstanding Section 2.E.3 above, an employee who is on injury leave as defined in Section 5 below for a period of six (6) months or more within the last twelve (12) month period and the employee is, or imminently will be, foregoing vacation credit accruals due to reaching the Maximum Balance, may have vacation credits converted to a cash pay payment as described in Section 2.E above.

### J. Anti-Terrorist Campaigns Leave Exceptions

An employee who is on Anti-Terrorist Campaign Leave in support of Operation Enduring Freedom and is, or imminently will be, foregoing vacation credit accruals due to reaching the Maximum Balance, may have vacation credits converted to cash payment as described in section E above and notwithstanding subsection 3 and subsection 4 with the approval of the appointing authority and the Director of Human Resources.

### Section 3. Bereavement Leave

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

#### A. Eligibility

Only biweekly rate employees on paid status shall be eligible for paid bereavement leave.

#### B. Amount of Leave

Bereavement leave shall not exceed three (3) work days for the death of a member of the employee's immediate family. Also, an employee shall be entitled to use two (2) days of sick leave as bereavement leave.

#### C. Immediate Family

Immediate family includes husband, wife, State-Registered Domestic Partner, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, grandmother, grandfather, grandchild, parent, stepparent, mother-in-law, father-in-law, or any person serving as a parent, or who has served as a parent, or any other close person living in the same household as the employee.

### Section 4. Sick Leave

Sick leave is paid leave earned and granted to an eligible employee for absences from work caused by personal illness or injury, for emergency or routine medical or dental appointments, and for reasonable travel time to and from health care facilities. An employee who is incapacitated for work because of pregnancy may be granted sick



## ARTICLE 6. PAID LEAVES (Cont'd)

leave upon presentation of satisfactory evidence from a physician verifying the incapacity.

An employee may also be granted up to a maximum of sixty (60) hours of paid sick leave in a twelve (12) month period for the purpose of caring for a member of his/her immediate family (as defined in Paragraph C below) who is ill or injured. In addition, if the employee requests paid sick leave in excess of sixty (60) hours in order to care or arrange care for a member of his/her immediate family who is critically or terminally ill, additional sick leave is available to the employee when granted by the appointing authority upon receipt of satisfactory verification from a physician.

### A. Eligibility

Employees eligible to earn sick leave are those employees who are paid at a biweekly rate, and who have regularly scheduled paid service of not less than one-half ( $\frac{1}{2}$ ) of the standard eighty (80) hour pay period.

### B. Earnings

Eligible employees shall earn sick leave credit at the rate of five percent (5%) of the employee's regularly scheduled hours per pay period. The hour/day approximate equivalent sick leave accrual for full-time employees over one (1) year (26 pay periods) is one hundred and four (104) hours, or thirteen (13) days. Sick leave is credited in units of one-tenth ( $\frac{1}{10}$ th) of one (1) hour, up to a maximum of four (4) hours, at the beginning of the pay period following the one (1) in which it was earned.

Paid holidays immediately preceding, immediately following, or wholly within the period for which sick leave is granted, shall not be regarded as part of such period of sick leave.

### C. Definition of Immediate Family

Immediate family includes husband, wife, State-Registered Domestic Partner, child, stepchild, brother, stepbrother, sister, stepsister, parent, stepparent, or any person serving as a parent, or who has served as a parent, or any other person living in the same household as the employee.

### D. Use of Sick Leave

Sick leave is available the first day of the pay period following the pay period in which it was earned, and is taken in units of one-tenth ( $\frac{1}{10}$ th) of one hour. Use of sick leave is subject to the approval of the appointing authority. Upon request of an employee, the appointing authority may allow the substitution of five (5) or more days of sick leave for paid vacation, provided the employee furnishes a

ARTICLE 6. PAID LEAVES (Cont'd)

doctor's statement or other satisfactory evidence that the employee was ill or injured for three (3) or more consecutive days.

E. Request for Sick Leave

Each request for sick leave shall set forth the reasons for the request and such further information as may be required. Each request for more than five (5) consecutive work days of sick leave shall be accompanied by a doctor's verification or other evidence satisfactory to the appointing authority which demonstrates the employee's incapacity to return to work or necessity to be absent. A request because of the death of a member of the employee's immediate family will not require such verification.

Upon request of the appointing authority, an employee shall be required to provide the above-described verification of the proper use of sick leave at any time prior to the expiration of five (5) consecutive work days, if the appointing authority has good cause to require such earlier verification and has so informed the employee.

F. Compensation for Unused Sick Leave

1. Employees who enter County service after July 1, 1979, shall not be eligible for compensation for any of their unused sick leave credits.
2. An employee with ten (10) or more years of continuous service during that employee's present employment who retires, voluntarily terminates, dies, discontinues earning sick leave credits by reason of that employee changing from being paid at a biweekly rate, is elected to County office, or is laid off, shall be paid twenty-five percent (25%) of that employee's accumulated sick leave credits. An employee who received such compensation shall have no right to restoration of any sick leave credit upon return to County service.
3. Employees who earned County service prior to July 1, 1979, and in accordance with the above provisions, shall be compensated for their unused sick leave credits as determined by the following payout ranges:

\$11,001	to	\$12,000
10,001	to	11,000
9,001	to	10,000
8,001	to	9,000
7,001	to	8,000
6,001	to	7,000
-0-	to	6,000

## ARTICLE 6. PAID LEAVES (Cont'd)

Cash payout for unused sick leave credits shall not exceed the upper limit of the range at which the employee's unused credits lie as of June 28, 1979.

4. All employees shall participate in the County's 401 (a) Terminal Pay Plan. However, only the terminal paychecks (including sick leave, if applicable) of those employees who have reached the age of fifty-five (55) shall be placed into the Plan. These terminal paychecks shall be placed into the Plan on a pre-tax basis in accordance with the Plan, all applicable laws and all rules and regulations applicable to the Plan.

### G. Conversion of Sick Leave Credits to Retirement Service Credit

Upon retirement, deferred retirement, disability retirement from County service, or death, an eligible employee's sick leave balance may be converted into retirement service credits subject to the rules and regulations of the San Diego County Retirement Association, provided that:

- a. The employee has completed ten (10) or more years of continuous service during that employee's present employment; and
- b. The employee's sick leave balance totals three hundred (300) hours or more; and therefore,
- c. Employees with ten (10) or more years of service may convert one hundred percent (100%) of their total sick leave credits.

### H. Employee's Options

Notwithstanding the provisions of Section 4.G of this Article, employees eligible under Section 4.F may elect to:

- a. Receive their full cash payment under Section 4.F and then convert their remaining eligible hours under Section 4.G
- b. Waive receiving full cash payment under Section 4.F and convert their eligible hours under Section 4.G.

### I. Calculation of Compensation for Unused Sick Leave

When an employee is paid the monetary value of sick leave as provided above, such compensation shall be calculated on the employee's basic rate of pay at that time plus those applicable premiums or bonuses which are being paid as part of the employee's hourly rate at the time of separation exclusive of any biweekly fixed dollar amount premiums and any other premiums specifically identified as excluded from terminal payout. Such calculation shall not include

## ARTICLE 6. PAID LEAVES (Cont'd)

any increase in pay which would have occurred had the sick leave been granted, nor shall it include payment for any holidays.

### J. Cancellation and Restoration of Sick Leave Credits

1. An employee's sick leave credits shall be canceled, subject to Section 4.J.2 below, upon separation from County Classified Service, or upon changing from a biweekly rate to other than biweekly rate of pay.
2. Employee sick leave credits accrued at time of separation, and which have not been subject to payout, shall be restored under the following conditions:
  - a. An employee returns to duty within three (3) years after separation because of layoff or disability retirement; or
  - b. An employee returns to duty within twelve (12) months following separation from temporary or seasonal employment; or
  - c. To the extent that recovery is made by the County either through Workers' Compensation Act benefits or claim against a responsible third party, of compensation, including any salary, vacation, sick leave and retirement credits paid an employee during absence on sick leave. Restored credits shall be computed on the basis of the employee's wage rate granted as sick leave during the time of absence. Credits shall be restored in full hour units with fractions of an hour disregarded.

### K. Reserve Sick Leave Credit

New employees hired on or after the effective date of this Agreement, will be credited ten (10) days reserve sick leave at time of hire pending normal accrual during the first year of employment.

## Section 5. Injury Leave

Injury leave is paid leave granted to a biweekly employee while unable to perform his or her job duties because of a job-related injury, entitled to Workers' Compensation temporary total disability benefits, and is not ineligible under one or more conditions listed in Section 5.A. herein. Injury leave compensation shall equal the difference between seventy-five percent (75%) of employee's wage rate and employee's Workers' Compensation temporary total disability indemnity.

The appointing authority shall provide release time to allow an employee to attend follow-up medical appointments for accepted work related injuries.

## ARTICLE 6. PAID LEAVES (Cont'd)

### A. Ineligibility

An employee shall not be entitled to injury leave under the following conditions:

1. Failure to use or wear prescribed safety or personal protective equipment;
2. Failure to follow safety rules and regulations;
3. Where the employee's gross negligence or willful misconduct is a proximate cause of the injury;
4. Any time the appointing authority, upon investigation, certifies that suitable light-duty employment is available, and employee refused to accept it;
5. Injury leave shall not be granted for aggravation, recurrence or sequelae of a pre-existing non-service connected physical disability or any physical condition existing prior to employment by the County, nor for recurrences, aggravation or sequelae of disabilities for which employee has received a permanent disability award or a compromise and release settlement under Workers' Compensation. To the extent the employee is otherwise eligible, sick leave may be granted.

### B. Definitions

1. Director. The Director of the Department of Human Resources;
2. Risk Management Division. The Division within the Department of Human Resources which administers the provision of workers' compensation benefits as mandated by the State of California.
3. Safety Rules and Regulations. Any and all written County or Departmental rules, policies, and procedures, in addition to California Occupational Safety and Health Act (CAL-OSHA) regulations, which relate to prevention of injury in the County work environment.
4. Wage Rate. The eligible employee's biweekly rate of pay, plus those specific premiums and/or bonuses which are paid on paid leave. Overtime, and any compensation identified as paid for time worked only and not applicable on paid leave, are excluded.
5. Workers' Compensation. Those benefits provided pursuant to Division IV of the California Labor Code.
6. Treating Physician. Any physician listed in Labor Code Section 3209.3 who is authorized by the County and is currently treating the employee for the job-related injury which forms the basis for injury leave eligibility.

## ARTICLE 6. PAID LEAVES (Cont'd)

7. Light Duty. Any restriction of hours worked and/or duties performed as a result of a job-related injury where such hours and/or duties are different than the employee's established work schedule and/or regular assigned duties prior to the injury.

### C. Request

Each request for injury leave shall be submitted to the employee's appointing authority immediately after medical treatment is obtained on the form prescribed by the Director, accompanied by verification of the treating physician authorized by the County. It shall set forth the reasons for the request and any further information as may be required by the Director.

### D. Investigation

1. The appointing authority shall make such investigation as is necessary to determine whether or not facts exist which support the request. Upon concluding the investigation, the appointing authority shall provide a summary of the findings to the Department of Human Resources, Risk Management Division.
2. The Director shall review the findings of the appointing authority and make any further investigation as is appropriate.
3. The Director may grant the request in whole or in part and determine the duration of the injury leave, or may deny the request. The Director shall notify the employee and the appointing authority in writing, if injury leave is denied.

### E. Appeal

The Director's decision shall be final unless appealed by the employee. Within ten (10) County business days of postmark or confirmed delivery of the Director's decision, the employee may appeal the decision by requesting arbitration. Written notice requesting arbitration must be presented to the Risk Management Division of the Department of Human Resources within the ten (10) days specified herein. The request for arbitration shall specify wherein the Director allegedly erred.

#### Selection of Arbitrator

The Risk Management Division will maintain a list of qualified neutral arbitrators from the Superior Court Arbitrator Personal Injury Panel. The Risk Management Division will assign an arbitrator in rotation from the Superior Court Injury Panel to hear the appeal. The arbitrator shall be determined by assigning names from

## ARTICLE 6. PAID LEAVES (Cont'd)

the Panel in alphabetical rotation. These arbitrators shall have workers' compensation experience.

### Authority of the Arbitrator

The arbitrator shall hear the appeal and determine whether or not injury leave should be granted and, if so, its duration by applying only this Injury Leave provision. However, the arbitrator shall have no authority to add to, delete from, or modify this Injury Leave provision. The arbitrator shall submit findings and a decision in writing. The decision of the arbitrator shall be final.

Each party to the appeal before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne one-half (½) by the County and one-half (½) by the appellant.

### F. Duration of Injury Leave

1. No injury leave may be granted during the first three (3) full calendar days after the employee leaves work as a result of the injury, except where the injury causes disability of more than fourteen (14) full calendar days or necessitates hospitalization within the three day waiting period. In such cases, injury leave may commence the first day the injured employee leaves work or is hospitalized as a result of the injury.
2. The duration of injury leave shall be that determined by the Director, after an investigation. An injury shall be deemed to continue through a recurrence, aggravation, or sequelae of the initial injury for which the leave may be granted. Injury leave shall not total more than seven hundred and twenty (720) aggregate hours for the particular injury.
3. If, subsequent to the granting of injury leave for a period of less than seven hundred and twenty (720) aggregate hours, it appears that leave should be granted for an additional period of time, the employee may request additional injury leave. This request shall be submitted and determined in the same manner as an original request for injury leave, provided that the total duration of the original and additional injury leave shall not exceed that specified in Paragraph 2 above.
4. In no event shall any injury leave exceed a total of seven hundred and twenty (720) aggregate hours, extend beyond five (5) years from the date of the initial injury, or extend beyond the period in which the employee is employed.

### G. Holidays Falling During Injury Leave

## ARTICLE 6. PAID LEAVES (Cont'd)

A holiday falling during the period of injury leave shall be charged as injury leave and not paid as a holiday.

Injury leave time shall be considered paid leave for the purpose of determining eligibility for accruing floating holiday credits.

### H. Absence Pending Injury Leave

When a claim for workers' compensation benefits and/or a final determination of entitlement to injury leave is pending, an employee may take paid leave or compensatory time off. If the employee becomes eligible for injury leave, it shall commence on the date determined by the Director, after an investigation. Any sick leave, compensatory time, or other paid leave used in lieu of injury leave after such date of commencement, shall be restored to the employee's balances, except that if the difference between the paid leave used and the injury leave for the same time period requires that employee reimburse County, the difference shall be deducted from the balances restored, to the extent available.

### I. Workers' Compensation and Leave

1. An employee shall not through a combination of temporary disability indemnity payments and paid sick leave, injury leave or paid leave pursuant to Section 4850 of the Labor Code receive payment in excess of his or her wage rate. The amount paid for such leaves shall be decreased by the amount of any temporary disability for the same period to which the employee is or may be entitled under Workers' Compensation.
2. If an employee has received his or her wage rate as paid sick leave, and temporary disability back payments covering the same period are made to the employee, then the employee shall be liable to the County for the amount that the combination of such back payments and sick leave exceeds the employee's wage rate. The County may deduct from any future payments it makes to such employee an amount equal to the total of such excess payment. Insofar as practical such deduction shall be done by a method that will not cause undue hardship to the employee. To the extent that such deductions represent compensation for sick leave used, the employee's sick leave balance shall be restored.
3. Nothing herein contained shall be deemed to affect the employee's entitlement to medical, surgical and hospital treatment or temporary disability indemnity benefits under Worker's Compensation.

### J. Light Duty

Where the injured employee's treating physician authorized by the County recommends light-duty assignment, it will be the responsibility of the appointing



## ARTICLE 6. PAID LEAVES (Cont'd)

authority to arrange suitable light duty. Department of Human Resources may provide staff technical assistance to find a suitable light-duty assignment, one which accommodates the particular restrictions provided by the treating physician.

### Section 6. Court Leave (Jury Duty)

Court leave is paid leave granted by the County to an eligible employee to enable that employee to fulfill his/her duty as a citizen to serve as a juror, or as a prospective juror, or to serve as a witness in a court action to which the employee is not a party, before a Federal, Superior, Justice or Municipal Court located within San Diego County or within the employee's county of residence.

#### A. Eligibility

Only a biweekly employee who has received an order from a court is eligible for court leave. Court leave is not granted when the employee is paid an expert witness fee or when attendance is part of the employee's official County duties.

#### B. Duration of Leave

Leave is granted for the time the employee is in attendance at court together with reasonable travel time between court and the employee's work location. If attendance at court is for less than a full day, the employee is to return to work, provided that adequate time exists prior to the end of the employee's regular work shift for the employee to so return.

### Section 7. Educational Leave

An employee may receive paid leave to attend courses, seminars, workshops or conventions that enhance, improve or add to the knowledge, skills and performance in the employee's County position.

The determination as to when and whether an employee is granted this leave shall be made by the employee's appointing authority; however, such approval shall not be unreasonably withheld. Request for such leave will be submitted in the manner prescribed by the employee's appointing authority.

### Section 8. Military Leave

Any employee who is or becomes a member of the Armed Services, Militia or Organized Reserves of California or the United States shall be entitled to the leaves of absence and employment rights and privileges provided by the Military and Veterans Code of the State of California.

## ARTICLE 6. PAID LEAVES (Cont'd)

Every military leave request shall be subject to review and approval by the Director, Department of Human Resources.

Employees who have been ordered to military service must submit notice (either orally or in writing) of their need for leave. Employees must provide thirty (30) days advanced notice of the need for the leave, if practicable.

### Section 9. Administrative Leave

#### A. Definition

Administrative leave means the employee's non-disciplinary paid absence from duty imposed by the appointing authority under specified conditions.

#### B. Eligibility

Bi-weekly rate employees shall be eligible to receive administrative leave.

#### C. Conditions

The appointing authority may direct an eligible employee to take administrative leave only if there is the occurrence, or the likelihood for the occurrence of, emergency or extraordinary circumstances which satisfy either one or both of the following two conditions:

1. The immediate removal of the employee from the County work site is essential to avert harm to the County (including unauthorized destruction or removal of any property or records of the County), the public, other County employees, or the employee himself or herself, and that such circumstances are sufficiently unclear to make a final determination without an investigation of whether the employee contributed or may contribute to such harm.
2. The removal of employee from the County work site is essential to ensure the conduct of a full, fair and complete investigation of such emergency or extraordinary circumstances.

#### D. Ineligibility

Notwithstanding Sections 9.B and C above, the employee shall not be eligible to be placed on administrative leave if:

1. The appointing authority is able to avert the occurrence of the circumstances specified under Sections 9.C.1 or C.2 above, by reassigning the employee to other duties or to a different work site within the department; or

## ARTICLE 6. PAID LEAVES (Cont'd)

2. The employee agrees to take accumulated paid leave time off at the request of the appointing authority; or
3. The emergency or extraordinary circumstances, referenced under Section 9. C. above are, as a result of the Skelly conference, sufficiently clear to indicate that the employee's conduct has caused such circumstances and that such conduct constitutes grounds for immediate suspension or termination pursuant to Rule VII of the County of San Diego Civil Service Rules.

### E. Procedures

1. The appointing authority shall provide the employee written notice of the administrative leave, its effective date and duration, and the reasons for placing the employee on such leave. A copy of this notice shall be sent to the Director, Department of Human Resources and the Payroll & Travel Accounting of the Auditor and Controller.
2. The appointing authority shall commence an investigation of the emergency or extraordinary circumstances not later than one (1) working day following the date of the written notice of administrative leave to the employee. The appointing authority may commence such investigation prior to the date of the written notice.
3. If, prior to the end of the administrative leave period (as specified in the written notice to the employee), the appointing authority determines that the employee's absence is no longer essential, the appointing authority shall notify the employee that administrative leave is no longer authorized effective the next working day and direct the employee to return to duty on such date. Such notice may be oral, but must be memorialized in the form of written notice which shall be provided to the employee upon the employee's return to duty. A copy of this notice shall be sent to the Director, Department of Human Resources and the Payroll & Travel Accounting of the Auditor and Controller.

### F. Duration

1. Administrative leave may be authorized for up to ten (10) working days for each separate and distinct set of emergency or extraordinary circumstances as set forth under Section 9.C above. Administrative leave may be extended for additional working days if more time is needed to complete the investigation, subject to the approval of the Director, Department of Human Resources. The employee shall be notified of any extension of the administrative leave. Such notice may be oral, but must be memorialized in the form of written notice which shall be provided to the employee prior to the end of the extension of the administrative leave.

## ARTICLE 6. PAID LEAVES (Cont'd)

A copy of this notice shall be sent to the Director, Department of Human Resources and the Payroll & Travel Accounting of the Auditor and Controller.

2. The duration of administrative leave, including any extension thereof, shall not continue beyond the day the appointing authority determines, based upon the investigation of the facts and circumstances, that the employee's absence from the County work site is no longer essential.
3. At the end of the authorized administrative leave or conclusion of the criminal investigation period, the employee shall return to duty, unless:
  - a. Other forms of authorized leave are approved by the appointing authority; or
  - b. A final order of suspension or termination against the employee has been implemented.

### Section 10. Catastrophic Leave Program

Leave credits, as defined below, may be transferred from one or more employees to another employee, on an hour-for-hour basis, in accordance with departmental policies upon the request of both the receiving employee and the transferring employee and upon approval of the employee's appointing authority, under the following conditions:

- A. The receiving employee is required to be absent from work due to injury or the prolonged illness of the employee, employee's spouse, Registered Domestic Partner, a Domestic Partner listed on an "Affidavit for Enrollment of Domestic Partners" submitted to employee benefits, parent or child, has exhausted all earned leave credits, including but not limited to sick leave, compensatory time and holiday credits, and is therefore facing financial hardship. Each application is assessed on a case-by-case basis.
- B. The transfers must be for a minimum of four (4) hours per transaction and in whole hour increments thereafter.
- C. Transfers shall be allowed to cross departmental lines in accordance with the policies of the receiving department.
- D. The total maximum leave credits received by an employee per approved occurrence shall normally not exceed five hundred and twenty (520) hours; however, if approved by his/her appointing authority, the total leave credits may be up to one thousand and forty (1,040) hours. Total leave credits in excess of one thousand and forty (1,040) hours will be considered on a case-by-case basis by the appointing authority subject to the approval of the Chief Administrative Officer.

## ARTICLE 6. PAID LEAVES (Cont'd)

- E. The transfers are irrevocable, and will be indistinguishable from other leave credits belonging to the receiving employee. Transfers will be subject to all taxes required by law.
- F. Leave credits that may be transferred under this program are defined as the transferring employee's vacation credits or up to twenty-four (24) hours of sick leave per fiscal year.
- G. Transfers shall be administered according to the rules and regulations of the Auditor and Controller, and made on a form prescribed by the Auditor and Controller. Approvals of the receiving and donating employee, the donating employee's appointing authority and the receiving employee's appointing authority (in the case of an interdepartmental transfer) will be provided for on such form.
- H. Employees are limited to two solicitations (one department wide, the other County wide) per occurrence.
- I. This program is not subject to the Grievance Procedure of this Agreement.

### Section 11. Professional Time Off

At the discretion of the Appointing Authority and in accordance with any guidelines the Appointing Authority may issue, an employee may be granted professional time off not to exceed a maximum of forty (40) hours per fiscal year. The Appointing Authority's decision on whether to grant professional time off shall be based on an employee's overall workload associated with assigned projects and caseload.

#### Professional Time Off:

1. Must be approved by the Appointing Authority or the Appointing Authority's designee, either orally or in writing, prior to the commencement of the leave.
2. Shall commence on July 1, 2003.
3. Shall be limited to a cumulative maximum of forty (40) hours in a fiscal year.
4. Shall be limited to increments of eight (8) hours, which shall constitute a full workday.
5. Shall not accumulate or be earned as a matter of right.
6. Has no cash value and is ineligible for terminal payoff.

## ARTICLE 6. PAID LEAVES (Cont'd)

### Section 12. Appeal of Disputes: Paid Leaves

Unless otherwise specifically provided for in this Article, any disputes which arise concerning the application or interpretation of the paid leave provisions of this Agreement shall have recourse to the Grievance Procedure herein and shall not be appealable to the Civil Service Commission. Nothing in this Section is intended to abrogate any right afforded to an employee by the Civil Service Rules.

## ARTICLE 7. LEAVE OF ABSENCE WITHOUT PAY

A permanent employee may be granted unpaid leave either with the right to return or without the right to return. Prior to receiving any unpaid leave, an employee must exhaust all his/her vacation, compensatory time and, if the leave without pay is for illness, all sick leave, before leave without pay can begin. Exception: No paid leave of any kind will be granted an employee who is on suspension as discipline.

### Section 1. Leave Without Pay with Right of Return

- A. If leave with right to return is granted, after such leave the employee shall be entitled to return to the same class in the same department as was occupied at the commencement of the leave.

At the discretion of the appointing authority, an employee may be granted:

1. Leave without pay for a maximum of sixty (60) work days.
2. Leave without pay to accept a temporary appointment (includes provisional appointments) to a classified or unclassified position in a County department. Such leaves shall be for a maximum of twenty-six (26) biweekly pay periods. The employee shall not be required to exhaust all his/her vacation and compensatory time before commencing this type of leave.
3. Leave without pay when certified by a medical doctor to be unable to perform the duties of the employee's position. Such leave shall be for the duration of the disability but not to exceed one (1) year. However, if an employee is unable to return to work at the end of one (1) year, the employee shall be placed on leave without pay without right to return for a maximum of one (1) year.

While on this additional leave, the employee shall have the right to the first vacancy in the class in the department.

4. At the discretion of the appointing authority, and approval of the Director, Department of Human Resources, an employee may be granted leave

## ARTICLE 7. LEAVES OF ABSENCE WITHOUT PAY (Cont'd)

without pay for good cause, other than illness, up to twenty-six (26) biweekly pay periods. Such leaves may be extended a maximum of twenty-six (26) biweekly pay periods by the Director if circumstances warrant.

5. Special Leave. Notwithstanding any other provision of this Article, the appointing authority, for good cause, may grant a permanent employee a voluntary leave of absence without pay with right to return for a maximum of twenty-six (26) biweekly pay periods. Leave pursuant to a sabbatical leave program approved by the appointing authority shall be considered leave for good cause.

### Section 2. Leave Without Pay Without Right of Return

If leave without pay without right of return is granted, after such leave, the employee shall have no entitlement to return to the same class in the same department as he/she occupied at the commencement of the leave.

The Director, Department of Human Resources, may, with proper justification, grant a leave without pay without right to return for a maximum of twenty-six (26) biweekly pay periods.

An employee granted leave without pay pursuant to this provision, if not offered an opportunity to return to the same class of position in the same department at the expiration of such leave, may be provided additional leave until a position in his/her class and department is made available to him/her, and provided further that such additional leave shall not exceed twenty-six (26) biweekly pay periods. Any employee who is not returned to County employment at the expiration of the initial leave without pay and who is not returned to County employment within the next succeeding twenty-six (26) pay periods shall be deemed to be absent without leave.

### Section 3. Leave Without Pay - Staff to Elected Official

The Director, Department of Human Resources, may grant a leave without pay to a classified employee for an indefinite period of time to accept an unclassified position as staff to an elected official. This leave may be either with or without the right to return. The employee shall not be required to exhaust all his/her vacation and compensatory time before commencing this type of leave.

### Section 4. Cancellation of Leave Without Pay

If an employee violates the conditions upon which leave without pay is granted, the Director, Department of Human Resources, may cancel said leave. In such instances, the employee may be deemed to be absent without leave on the date designated by the Director.

## ARTICLE 7. LEAVES OF ABSENCE WITHOUT PAY (Cont'd)

### Section 5. Voluntary Furlough (Short Term)

Notwithstanding any other provisions of this Article, the appointing authority, on approval of the Chief Administrative Officer, for good cause may grant a permanent or probationary employee a voluntary leave of absence without pay with right of return to the same position subject to the following conditions:

1. Leave must be taken in increments of one (1) full regular workday for the eligible employee (e.g., 8, 9, 10, or 12 hours).
2. Such leave shall be available only during a period or periods of time designated by the Board of Supervisors as times of economic hardship.
3. The amount of leave time taken during the period authorized by the Board of Supervisors shall not exceed the total number of hours in one regular pay period for the eligible employee.
4. Credits toward sick leave, vacation, and holiday eligibility shall accrue as though the employee were on paid status.
5. Time on this special unpaid leave shall apply toward time in service for completion of probation and toward seniority for purposes of layoff.
6. Employees shall not be required to use accumulated vacation and compensatory time off prior to taking this special unpaid leave.
7. Such leave is available only to employees who are on paid status the entire work day before as well as the entire work day after the work furlough days.
8. Employees on other leave without pay shall not be eligible for work furlough.

### Section 6. Voluntary Furlough (Long Term)

Upon determination by the appointing authority that work force reductions may be necessary in the department, the appointing authority, with the approval of the Director, Department of Human Resources, may grant a corresponding number of permanent employees leave without pay with right of return to the same class in the department in which the leave was granted for up to twenty-six (26) biweekly pay periods subject to the following conditions:

1. The employee shall not be required to use accumulated vacation and compensatory time off prior to taking this type of leave.



## ARTICLE 7. LEAVES OF ABSENCE WITHOUT PAY (Cont'd)

2. In the event that there is no vacancy upon expiration of the leave, the employee may displace an employee in the same class who has fewer layoff rating points. In the event that there is no vacancy, and no employee in the same class with fewer layoff rating points, an additional leave of up to twenty-six (26) biweekly pay periods shall be granted during which the employee, if still physically fit, may fill the first vacancy which occurs in the same class.
3. The employee who is granted this type of leave shall continue to accrue seniority for purposes of calculating layoff rating points in the same manner as if on paid leave.
4. It is understood that employees granted this type of leave will not be eligible for unemployment compensation benefits while on leave.
5. It is understood that employees granted this type of leave will not accrue sick leave or vacation credits while on leave.
6. It is understood that the County's share of health insurance premiums for the employee will not be paid during this type of leave, but that the employee may continue such coverage at his/her own expense.

### Section 7. Family Medical Leave

#### A. Definition

Family Medical Leave is unpaid time off which may be granted to an eligible employee for certain qualifying events. Family Medical Leave shall be in accordance with the federal Family and Medical Leave Act of 1993 ("FMLA"), Public Law 103-3, 107 Stat. 6 (29 USC 2601 et seq.) as well as California Family Rights Act of 1991 ("CFRA") pursuant to Govt. Code Section 12945.2, administrative regulations promulgated by the California Fair Employment and Housing Commission, subject to the conditions set forth below under this Article.

#### B. Eligibility

Family Medical Leave shall apply to all biweekly rate employees who have been employed by the County for at least twelve (12) months and for at least one thousand two hundred and fifty (1,250) hours of service during the twelve (12) month period immediately preceding the commencement of the leave are eligible for FML and who meet all the eligibility requirements of the FMLA or the CFRA.

#### C. Conditions

1. The employee shall give notice to the appointing authority of the need for FML by completing the required forms.

## ARTICLE 7. LEAVES OF ABSENCE WITHOUT PAY (Cont'd)

2. The requested leave will be counted against the employee's annual FMLA and California Family Rights Act ("CFRA") entitlement as well. This notice shall refer to the leave as "FML."
3. If an employee is requesting leave for more than three (3) days due to their own serious health condition or a serious health condition of a family member or registered domestic partner (a domestic partner listed on an "Affidavit for Enrollment of Domestic Partners" or a state "Certificate of Registered Domestic Partnership" submitted to employee benefits), they must provide medical certification on the form entitled "Certification of Health Care Provider" (Form DHR EB-20). If an employee does not submit a medical certification, FML may not be granted. Under certain circumstances, recertification of the serious health condition may be required.
4. The employee is required by the County of San Diego to substitute accrued vacation or other applicable paid leave in lieu of FML unpaid leave if the employee is eligible for the paid leave according to the County's paid leave provisions. Such paid leave usage will be counted against the employee's FML duration entitlement.
5. The County will continue to make its regular contributions towards insurance premiums for up to twelve (12) weeks of FML in order to maintain insurance benefits. The employee will be required to continue to pay their share of their regular insurance premium payments during FML. During FML unpaid leave, these payments must be made by check or money order to the County's Employee Benefits twice monthly. Premium payments may be made in advance or the County will recover these payments from the employee upon their return to work.
6. The employee will be required to provide a fitness-for-duty certification before returning to work, unless the appointing authority determines that the certification is not necessary as more fully set forth in County Compensation Ordinance Section 4.3.12.
7. Following FML leave, the employee is entitled to return to the same or an equivalent job upon return from leave. However, should the employee exhaust their FML leave and continue on some other form of County unpaid leave, they may not be entitled to return to their previous position.
8. The employee may be liable for the payment of health insurance premiums paid by the County during their FML leave if the employee does not return to work for at least thirty (30) days after taking FML leave as more fully set forth in County Compensation Ordinance Section 4.3.12.

### Section 8. Appeal of Disputes: Unpaid Leaves

## ARTICLE 7. LEAVES OF ABSENCE WITHOUT PAY (Cont'd)

Any disputes which arise concerning the application or interpretation of unpaid leave provisions of this Agreement shall have recourse to the Grievance Procedure herein and shall not be appealable to the Civil Service Commission. Nothing in this Section is intended to abrogate any right afforded by the Civil Service Rules.

## ARTICLE 8. ALLOWANCES FOR WORK-RELATED EXPENDITURES

### Section 1. Mileage and Use of County Cars

#### A. Mileage

Employees certified by the department head as required to travel on business for the County and who have been duly authorized to use, and uses, a privately-owned automobile or truck, shall be allowed and paid as traveling expenses at the Internal Revenue Service (IRS) reimbursement rate for mileage. In the event the IRS increases the reimbursement rate for mileage, the County will adjust the mileage reimbursement rate to equal the new IRS rate as soon as practical, not to exceed sixty (60) days from the effective date of the IRS increase.

#### B. Use of County Cars

An employee, when required to travel on business for the County, may be given an option to use a County-provided vehicle, subject to availability, or a privately owned vehicle.

In the event that a gasoline rationing/allotment program is mandated by Federal or State action, it is not the County's intent to require an employee to use his or her personal allocation for County business without the employee's consent.

County vehicles may be equipped with Global Positioning Satellite (GPS) equipment which tracks the location, speed, and direction of the vehicle for County documentation, analysis, and use. Information gained from this equipment that supports a County employee has violated State law or County policy, may be used to support a corrective or disciplinary action against the employee. Employees shall be notified if the County Vehicle they are driving is equipped with the GPS equipment.

### Section 2. Parking and Transportation

#### A. Parking

This Section does not guarantee the provision of free parking spaces for employees. County parking lots, where available, will have the spaces contained therein designated in the following priority:

## ARTICLE 8. ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

1. Disabled
2. Public
3. County-owned vehicles
4. Official County business - transient
5. County employees who participate in carpools
6. County employees who do not participate in carpools.

An employee who participates in carpools (two (2) or more persons per vehicle, four (4) days per week minimum) shall be entitled to preferential parking spaces, when available.

### B. Transportation Reimbursement

The County shall reimburse all employees paid on a biweekly basis except those on an "hourly" or "special rate" pay basis for costs incurred in traveling to and from work, as follows:

1. Up to eighty-five (\$85) reimbursement per month for each eligible employee who purchases a San Diego Metropolitan Transit Development Board "Ready Pass" (which includes trolley usage), or County Transit System bus pass, or North County Transit District "Coaster Plus Pass", or "Coaster 10-Trip Tickets", or similar monthly pass. Employees are eligible to participate in the Transit Pass Program after the first day of the month following their date of hire. An employee will not be reimbursed for any amount in excess of the actual cost of the pass; or
2. Effective June 23, 2017, three-hundred dollars (\$300) reimbursement per month for each eligible employee who incurs parking expenses at the below locations; or
3. Twenty-five dollars (\$25) reimbursement per month for each eligible employee who incurs expense as a participant in the County Ride-Sharing Program through SANDAG at the below locations.

Applicable locations for 2 and 3 above: San Diego Courthouse and Jail, Center City Building, 110 West "C" Street and 450 "B" Street. Eligibility above is to be determined through certification by the appointing authority that the employee has incurred expense under the conditions stated above in at least the amount specified, subject to the rules and regulations of the Auditor and Controller. The administration of the sale to employees of discounted transit passes shall be subject to the rules and regulations of the Auditor and Controller.

### Section 3. Repayment of Specialized Training Expenses

ARTICLE 8. ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

- A. The County may recover specialized training expenses from an employee who terminates employment within one (1) year of completion date of such training consistent with the following schedule of reimbursement:

<u>Completion Date</u>	<u>Reimbursement</u>
Within 3 months	100%
After 3 months – before 6 months	50%
After 6 months – before 12 months	25%
After 1 year	0%

- B. In cases where specialized training is to be made available, the Appointing Authority shall include in the request for training authorization a signed agreement between the County and the employee which provides that training costs in excess of one thousand five hundred dollars (\$1,500) for any single training session or related series of training sessions will be reimbursed to the County if the employee terminates prior to one year for any reason other than death, disability retirement or judicial appointment.
- C. Training costs shall be calculated to include:
1. Travel expenses
  2. Meals and lodging expenses
  3. Registration or tuition expenses
  4. Books and other related materials expenses
- D. At the request of the Appointing Authority, the Chief Financial Officer may consider a reduction of, or a complete release from, the employee's obligation if extreme hardship can be demonstrated in writing.
- E. Specialized training is determined by the Appointing Authority, and generally does not include conferences or training that is required for performing the basic functions and duties of employee's classification.
- F. Further, this provision shall not apply to training with no net cost to the County by virtue of being covered by an offsetting grant or other reimbursement.

Section 4. Educational/Professional Stipend

Eligible employees in the Deputy Public Defender classifications shall receive an annual stipend of two thousand five hundred (\$2,500) for professional expenses. The County shall, on the payday for the Payroll 03, pay such a stipend, by including it in the paycheck for that time period, to employees who are in job classifications in the PD and PM units in Payroll 02 of that year.

Section 5. Bar Fees and Dues

## ARTICLE 8. ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

The County shall reimburse any permanent employee, who works at least eighty (80) hours per biweekly period, for the cost of renewing any license or certificate the employee is required to possess as a condition of employment by the County, which the employee is required to renew during the term of this Agreement.

### A. California State Bar Fee

Employees in job classifications Deputy Public Defender I, II, III, IV, V who are required by his or her office or employment and the State Bar Act to be an active member of the California Bar in order to practice law on behalf of the County or to perform the duties of his or her office and employment, and is prohibited by the Charter or other regulation from private practice while so employed, shall be reimbursed by the County for such required annual active California Bar membership fee.

### B. California Public Defender Association Dues

Employees in job classifications Deputy Public Defender I, II, III, IV, V who meet the requirements in Section 4.A. shall be reimbursed by the County for the basic dues for annual membership in the California Public Defender Association.

This reimbursement shall not cover any costs to the employee of becoming eligible for, or initially obtaining, such license. Reimbursement shall also not apply to any license necessary for the legal operation of vehicles or mechanical equipment.

## ARTICLE 9. EMPLOYEE BENEFITS

### Section 1. Retirement

The County shall pay the rate prescribed for employer contributions into the General Retirement Fund in accordance with the law and the rules and regulations governing such employer contributions.

Each employee shall pay, via payroll deduction, the amount prescribed by the rate established for each employee's contribution for the appropriate General benefit Tier into the appropriate fund in accordance with the rules and regulations governing such employee contributions.

The Board of Supervisors shall adopt the employee retirement contribution rates recommended by the Retirement Board within ninety (90) days after the beginning of the immediately succeeding fiscal year from the date the recommendation is made.

ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

Except as specifically provided, retirement benefits for employees hired on or after March 8, 2002, but before August 27, 2009, shall be those established for Tier A of the General Retirement Program for eligible employees.

Employees hired before March 8, 2002 will receive "Tier A" retirement benefits unless the employee exercises the right to "opt out" of the "Tier A" program. Those who exercised the right to "opt out" of the "Tier A" program will receive Tier I retirement benefits.

After March 8, 2002, employees electing the General members enhanced retirement formula Tier A shall pay, via payroll deduction, the amount prescribed by the rate established for each employee's contribution for Tier A into the appropriate fund in accordance with the law and rules and regulations governing such employee contributions.

The employer and employee contribution rates are subject to annual San Diego County Employees Retirement Association actuarial reviews and establishment of rates.

The implementation of retirement benefit changes in this proposal is subject to the conditions imposed by applicable County retirement laws under Government Code sections 31644.1 et. seq. and 31676.17 et. seq. which require that such changes may only be implemented when such retirement benefit changes for active general or safety members represented by the Association are able to be implemented by the County for all active County general or safety members, respectively.

Except as otherwise stated below (Tier C) or otherwise provided by State Law, retirement benefits for employees hired on or after August 28, 2009 shall be "Tier B" program for eligible employees.

"Tier B" shall consist of the following benefits:

Formula	2.6% @ 62 (Gov. Code § 31676.12)
Final Average Compensation	Highest 3 year Average
Minimum Retirement Age	55
COLA	Maximum 2%

Except as otherwise provided by State law, any eligible employee who becomes a New Member, as defined by Government Code section 7522.04, on or after January 1, 2013 shall be placed in Tier C.

"Tier C" shall consist of the following benefits:

Formula	2.5% @ 67 (Gov. Code § 7522.20)
Final Average Compensation	Highest 3 year Average
Minimum Retirement Age	52
COLA	Maximum 2%

ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

Retirement benefits for employees hired on or after a date determined by the Board of Supervisors, but no sooner than July 1, 2018, shall be those established for a new "Tier D" program for eligible employees.

"Tier D" shall consist of the following benefits:

Effective on or after July 1, 2018

Formula 1.62 % @65

Final Average Compensation Highest 3-Year Average

COLA Maximum 2%

The implementation of "Tier D" is contingent upon the adoption of resolutions and an ordinance by the Board of Supervisors, which implement the provisions of "Tier D" (described above) applicable to general members who become new members, as defined by Government Code section 7522.04(f), in County positions on or after a date specified in the applicable resolution.

A. Retirement Offset

1. Notwithstanding the above and unless modified by Section 1.A.2. below, the County will offset a portion of the employee's prescribed rate. The County shall, therefore, contribute a portion as described below of each employee's prescribed amount, but no more than the employee's established rate. In the event that the employee's rate is less than the portion described below, the employee shall not be credited with the difference. Upon termination, employees shall have no vested right in the amount of the retirement funds contributed by the County on their behalf.

Tier A:

More than 5 years: 3%

Less than 5 years: .75%

Tier B:

More than 5 years: 2%

Less than 5 years: .25%

Tier C:

No Offset

2. Effective the final pay period in FY 2016/2017, all retirement offset shall be eliminated.

Effective June 9, 2017, the final pay period in FY 2016-2017, all employees shall receive a wage increase of 2% as an even exchange with parity for the remaining offset elimination. The parties have determined this provision is cost neutral to the County.



## ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

3. a. Further, upon completion of five (5) full years of continuous service in the County retirement system, the employee shall receive the full retirement offset, in which case, Section 1.A.1. above shall apply.
- b. Notwithstanding Section 1.A.2.a. above, the County has the right to:
  - i. determine which classification(s), if any, shall be exempted from Section 1.A.2.a;
  - ii. implement such determinations as the County deems advisable.

### Section 2. Insurance/Flexible Benefits Plan

Eligibility: Employees employed on a full-time (80-hour biweekly) basis shall be eligible for insurance benefits. Employees employed on a part-time basis and who are regularly scheduled to work one-half ( $\frac{1}{2}$ ) time or more (40 hours or more in a 80-hour biweekly pay period) and paid on a biweekly pay basis shall be eligible for insurance benefits.

#### A. Flexible Benefits Plan

A flexible benefits plan, which is in accordance with Section 125 of the Internal Revenue Code, was implemented for eligible employees covered by this Agreement on October 1, 1990.

1. Plan Design. The flexible benefits plan is a cafeteria-style benefits program wherein the County makes a contribution towards the Flexible Benefits Plan for each eligible employee to be allocated during the employee's active employment. The County contribution is distributed by the employee among the menu of benefit options listed below, the specific details and administration of which are set forth in the plan brochures:

##### "Core" Benefits:

- Health insurance
- County basic life and AD&D insurance

##### Optional Benefits:

- Dental insurance
- Vision insurance
- Supplemental life insurance
- Supplemental accidental death and dismemberment insurance (AD&D)
- Flexible spending accounts for pre-tax reimbursement of qualified medical and/or dependent day care expenses. Account credits must be used during the plan year in which they are earned for expenses incurred during the same plan year.
- The plan may be modified upon written notice by the County.

## ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

This plan includes for eligible employees pre-tax contributions for all monies paid towards health, dental, vision and/or voluntary AD&D plans.

### 2. Coverage.

- a. All eligible employees are required to have the following minimum "core" benefits for the employee only:
  - County health insurance unless properly waived
  - County basic life and AD&D insurance
- b. Coverage by County Spouse: An eligible County employee married to another eligible County employee and who submits satisfactory "proof of health insurance" coverage may elect health insurance coverage as a dependent under the spouse's primary plan. In such a case, the employee covered as a dependent will have the "employee only" County contribution amount available to apply towards the employee's Flexible Benefits Plan during the employee's active employment.
- c. Proof of Coverage: Employees who submit satisfactory "Proof of Health Insurance Coverage" may elect not to be covered by the County's health insurance plans. This election may only be made during the County's open enrollment period or during the year as the result of a qualifying "change in status" as defined by Section 125 of the Internal Revenue Code. For employees waiving primary participation in a County-sponsored health plan, the County's contribution will be deposited into the employee's Flexible Spending Account.
- d. Domestic Partner: An employee may elect to cover a Registered Domestic Partner or Non-registered domestic partner under the County's health, dental or vision plans. To cover a Registered Domestic Partner, the employee must submit a copy of the State Registration Certificate to Employee Benefits. Any premium paid by the County on behalf of the Registered Domestic Partner or the Registered Domestic Partner's dependent(s) will be considered taxable income for Federal taxes pursuant to the provisions of the Internal Revenue Code, but will not be considered taxable income for State taxes, pursuant to the California Revenue and Taxation Code. To cover a Non-registered domestic partner or the Non-registered domestic partner's dependent(s), the employee must meet and agree to the specifications set forth on an "Affidavit for Enrollment of Domestic Partners." Any premium paid by the County on behalf of the domestic partner or the domestic partner's dependent(s) shall be considered taxable income for Federal and State taxes to the employee with domestic partner coverage

ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

pursuant to the provisions of the Internal Revenue Code and the California Revenue and Taxation Code.

3. County Contribution Towards Flexible Benefits Plan. Insurance premium costs shall be borne by the employee excepting that the County shall make the following contribution towards the Flexible Benefits Plan (which includes health insurance). The employee's insurance premium costs will be reduced by the amount the employee elects to distribute to his or her insurance premium costs from the County's contribution towards the Flexible Benefits Plan.

The County's contribution towards the Flexible Benefits Plan shall be:

Effective January 1, 2018: 7% Increase

	Per Month	Approximate Annual
Employee Only	\$592.00	\$7,104.00
Employee + 1	\$872.00	\$10,464.00
Employee +2 or More	\$1,256.00	\$15,072.00

Effective January 1, 2019: 7% increase

	Per Month	Approximate Annual
Employee Only	\$633.00	\$7,596.00
Employee + 1	\$933.00	\$11,196.00
Employee + 2 or more	\$1,344.00	\$16,128.00

Effective January 1, 2020: 7% increase

	Per Month	Approximate Annual
Employee Only	\$677.00	\$8,124.00
Employee + 1	\$998.00	\$11,976.00
Employee + 2 or more	\$1,438.00	\$17,256.00

Effective January 1, 2021: 7% increase

	Per Month	Approximate Annual
Employee Only	\$724.00	\$8,688.00
Employee + 1	\$1,068.00	\$12,816.00
Employee + 2 or more	\$1,539.00	\$18,468.00

ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

Effective January 1, 2022: 7% increase

	Per Month	Approximate Annual
Employee Only	\$775.00	\$9,300.00
Employee + 1	\$1,143.00	\$13,716.00
Employee + 2 or more	\$1,647.00	\$19,764.00

4. Effective Dates of Eligibility Under the Flexible Benefits Plan. The effective date of eligibility under the Flexible Benefits Plan for new employees shall be the first day of the month following month of hire provided that the employee has completed and returned all enrollment forms within the month of hire. If completed forms are not received by the end of the month of hire, benefits will be effective the first day of the month following receipt of completed forms. All forms must be received by Employee Benefits within thirty (30) days of hire in order for benefits to commence. Eligibility shall terminate on the last day of the month in which an employee last had paid service provided that the employee's portion of the health insurance premium is paid for such period.

Employees who do not submit completed enrollment forms within forty-five (45) days of hire will be automatically enrolled in the County's least costly health insurance plan.

Notwithstanding the above, eligibility for all flexible benefits plan features which are in addition to health insurance shall be thirty (30) days after the effective date on which health insurance coverage begins.

5. Employee Insurance Coverage During Leaves of Absence

- a. Life Insurance. Employees on leave without pay for any reason, including suspension, may continue their basic and supplemental life insurance/AD&D coverage for up to six (6) full months.

Employees choosing to continue their life insurance may do so for up to six (6) months while on leave. Premiums must be paid by the end of the month in which the employee had coverage.

Employees may pay all premiums required for the entire six (6) month leave period in advance. In the event an employee who is on leave without pay does not pay premiums in advance of the end of the month, the coverage shall be discontinued. Such employees shall be entitled to re-apply upon return to work subject to medical insurability acceptable to the insurance provider.

## ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

Employees may submit payment to Employee Benefits by check or money order. In the event that the last day of the month falls on a weekend, receipt of payment on the following Monday is sufficient.

- b. Health Insurance. In accordance with the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 (Pub. L. 99-272), employees may also continue their health, dental and/or vision insurance coverage for up to eighteen (18) full months following the month in which the leave commenced.

In the event an employee who is on leave without pay does not pay health insurance premiums in advance, the coverage shall be discontinued. Such employees shall be automatically re-enrolled in the same health plan enjoyed previous to leave without pay, within thirty (30) days from the date they return to work.

Effective date of coverage will be the first day of the month following receipt of enrollment forms in Employee Benefits. With certain health plans, re-enrollment is contingent upon medical insurability.

The commencement of leave without pay shall be considered a "qualifying event" as defined under COBRA by virtue of the employee's reduction in working hours. Employees who elect coverage under COBRA by choosing to continue their medical insurance shall pay one hundred and two percent (102%) of the applicable premium and shall be subject to the same administrative requirements as all other COBRA group plan members. Premiums will be calculated and paid by the employee at least one (1) month in advance.

- c. The administration of these benefits is subject to the rules and requirements of the Department of Human Resources.
6. Flex credits not designated for eligible services are placed in the employee's health FSA. IRS regulations establish annual maximum limits for flexible credits which may be rolled over to an FSA. An employee is not entitled to flexible credits that, when rolled over to an FSA, exceed the maximum limits allowed by law. Any employee who is expected to have flexible credits rolled over to an FSA that will exceed the maximum limits shall have their bi-weekly flex credit contributions adjusted to an amount, that when calculated on an annual basis, will be equal to the maximum allowed by law.

Notwithstanding the above paragraph, if an employee experiences a "qualifying event" as defined by IRS and HIPAA Regulation, or has a

## ARTICLE 9. EMPLOYEE BENEFITS (Cont'd)

triggering event that impacts flex credits, that employee will be allowed to change their status and have their flex benefits recalculated so as to maximize or recoup any retroactive flex benefits previously adjusted, in order to realize the maximum value of the flex benefit contribution, subject to IRS limitations.

### B. Life Insurance

1. The County's Flexible Benefits Plan shall include, as "Core" Benefits:
  - a. A Life Insurance Policy of one (1) times the employee's annual salary up to two hundred thousand dollars (\$200,000) maximum and fifty thousand dollars (\$50,000) minimum. At age seventy (70), this will be reduced by forty percent (40%) and at age seventy-five (75) by sixty percent (60%).
  - b. An Accidental Death & Dismemberment policy of one (1) times base annual pay up to two hundred thousand dollars (\$200,000) maximum and fifty thousand dollars (\$50,000) minimum. The coverage under this policy is available no matter where or when the accident occurs. At age seventy (70), the coverage will be reduced forty percent (40%) and at age seventy-five (75) by sixty percent (60%).
  - c. Disability Insurance. LTD benefit is two-thirds (2/3) of employee's salary (excluding overtime, bonuses, etc.) up to 12 thousand dollars (\$12,000) per month. Benefits commence at the longer of (a) thirty (30) days, and (b) the end of the period of sick leave, vacation pay, and FLSA compensatory time to which employee is entitled. The LTD benefit continues to age sixty-five (65) or until disability ends. For disabilities commencing between age sixty (60) and seventy (70), the benefits duration is decreased slightly for each year of increased age; benefits cease at age seventy (70). Benefits are integrated with Social Security, Worker's Compensation, and Retirement plans as well as any other outside income.
  - d. The County shall provide the insurance plans described in Section 3.B.1.a., b., c., and d. above, for each eligible employee at no expense to the employee.

### C. Deferred Compensation

Employees shall be eligible to participate in the Deferred Compensation Program provided and administered by the County or the County's selected administrative agent (or agency).

## ARTICLE 10. PERSONNEL PRACTICES

### Section 1. Layoff Procedure

#### A. General

When the Board of Supervisors determines it is necessary through lack of work or funds, to reduce the number of employees in any class covered by this Agreement, the appointing authority of the department concerned shall notify the Director of Human Resources in writing of the number of employees to be laid off, the class title, and the date the employees are to be laid off. Upon receipt of such notice, the Director of Human Resources shall give to the appointing authority, the names of the employees who should be first laid off in accordance with this procedure.

#### B. Exceptions

1. Suborganizational Layoff. When the appointing authority so requests, the Civil Service Commission, upon finding that it is in the public interest, may authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution instead of laying off employees from the office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Civil Service Commission has authorized the layoff.
2. Required Specialized Skills. When the appointing authority so requests, employees who perform required services and possess specialized knowledge, and/or skill not possessed by other employees in the Department and which are necessary to the operation of the Department, may be excepted from layoff, as authorized at a public meeting by the Civil Service Commission pursuant to a finding that such exception from layoff is in the public interest.

#### C. Notice of Layoff

1. DHR Notice to Department and to Association. Prior to the occurrence of a layoff, the Director, shall provide written notice to the Association when the Department is notified of any employees covered by this Agreement, who are identified for layoff. This notice shall list all persons in the affected class including the number, class title, seniority rating, and date on which affected employees are to be laid off.
2. Appointing Authority Notice to Employees. Upon receipt of the layoff list, the appointing authority shall prepare and serve a Notice of Layoff. The notice shall contain the following information:

## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

- a. The effective date of layoff;
- b. The seniority rating of the employee computed by the Director;
- c. The seniority ranking of the employee on the layoff list for the particular class involved in the layoff;
- d. The total number of layoffs for the particular class;
- e. A statement of the computation of seniority ratings and rankings;
- f. A copy of the complete layoff list compiled by the Director showing the seniority rating for each employee on the layoff list;
- g. A statement that the employee has the opportunity to contact the Director or designated representative no later than five (5) business days after receipt of the Notice of Layoff to inspect the records relating to the computation of the layoff list including the employee's seniority rating and ranking, and to meet with the Director or designated representative, regarding any corrections related to such list, rating or ranking. The employee shall be informed that failure to contact or meet with the Director or designated representative within the prescribed period will be deemed a waiver of any objections that might have been raised regarding the list, rating, or ranking.
- h. A statement that the layoff will be effective on the date indicated unless the appointing authority advises the employee in writing otherwise prior to the effective date and time set forth on the notice;
- i. A copy of provisions of Rule XIV of the Rules pertaining to layoff.

### D. Approval and Service of Notice

The Notice of Layoff shall be approved by County Counsel prior to its distribution to any employee. The Notice of Layoff shall be served, either personally or by mail, on an employee at least fifteen (15) calendar days prior to the effective date of the layoff.

### E. Order of Layoff

Except for permanent employees who volunteer to be laid off, the order of layoff within the class and in the Department shall be in the following order (the appointing authority may lay off a volunteer for layoff at any point in this order):



## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

1. Provisional Employee. Definition: An employee who has not completed a probationary period and who has not been appointed to his/her present class from an eligible list.
2. Certified Temporary Employee. Definition: An employee who has not completed a probationary period and has been temporarily appointed from an eligible list for a specified period.
3. Probationary Employee. Definition: An employee who has been appointed to a permanent position from an eligible list and is currently serving, but who has never completed, a probationary period.
4. Permanent Employee. Definition: An employee who has completed a probationary period or a permanent employee who is serving a probationary period in the same or a different class.

Permanent employees shall be laid off according to the layoff ratings, lowest ratings first. The order of layoff within categories (1), (2), and (3), and for permanent employees with equal layoff ratings, shall be at the appointing authority's discretion. Employees on leave shall be laid off or demoted in lieu of layoff as if they were active employees.

### F. Seniority

Seniority is the employee's total hours of continuous County service. All service of a blanketed-in employee shall, for the period prior to classification to the position, be credited for seniority purposes whether or not it was continuous. All seniority is lost upon resignation or dismissal. Any employee who has gained permanent status and is laid off, shall, if reinstated, regain his/her seniority credit possessed at the time he/she was laid off.

### G. Calculation of Layoff Rating

1. Continuous-service-date to May 23, 1986 ("historical" layoff rating). The purpose of this "historical" layoff rating is to calculate employees' service credit for purposes of the past to the date of the last full pay period May 9, 1986, or implementation of this procedure, whichever is later. These points will constitute employee's layoff rating for the past, to which the points calculated for prospective implementation (standard layoff rating) will be added as provided below:

Historical layoff rating: One (1) point for each hour of continuous (unbroken) service from last date employee was hired into the classified service (80 points for each full biweekly pay period).

ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

2. Standard layoff rating. One (1) point for each hour of paid service (excludes all unpaid leaves or periods of suspension but includes short-term voluntary work furlough), after the day specified in (a) above, or implementation of this procedure, whichever is later.
3. Formula for combining historical and standard layoff ratings. Employees in classes identified for layoff shall have seniority calculated as follows to combine historical and standards ratings:

Total historical ratings: \_\_\_\_\_ Hours  
Plus: standard rating: \_\_\_\_\_ Hours  
Total: \_\_\_\_\_ Hours/Points

The total of these two ratings shall constitute the employee's official layoff rating.

H. Demotion in Lieu of Layoff

The appointing authority shall determine by class, subject to review by the Director, whether demotion shall be afforded employees as an option in lieu of layoff.

At the request of the appointing authority, a permanent employee shall, in lieu of layoff, be afforded the option of demotion within the same department to a position in a lower class, provided that no such demotion shall in turn require the layoff or demotion from such lower class of any employee whose layoff rating is at least as high as that of the demoting employee. A probationary employee may be afforded the opportunity to accept a demotion within the same department to a position in a lower class provided no such demotion shall in turn require the layoff of any employee in the lower class. Such probationer shall not become permanent in the lower class by this action except by completing a new full probation period in such lower class.

I. Cash in Lieu of Compensatory Time Off

The Board of Supervisors may approve the payment of cash in lieu of compensatory time off for any employee who is laid off when such payment is in the best interests of the public service.

J. Eligibility to be Placed on Reinstatement List After Layoff

A permanent employee who is laid off, demoted in lieu of layoff, or whose compensation ordinance position is to be deleted as a result of the Board of Supervisors having had a second reading of an Ordinance amendment to delete the position, shall have his/her name placed on the reinstatement list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff.

## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

Employees shall be on the reinstatement list for two (2) years except that an employee who three (3) times refuses an offer of reinstatement to the class from which he/she was laid off, or to a class of equal status, or fails to respond to an offer of reinstatement, shall have his/her name removed from the reinstatement list following said refusal. In addition, if the employee on the reinstatement list is appointed to a class from which he/she was laid off, or to a different class of equal or greater status than the reinstatement list class, then his/her name shall be removed from the reinstatement list. An employee who accepts an offer of reinstatement to the class from which he/she was laid off shall also be removed from the reinstatement list upon the date of reinstatement. The placement on the reinstatement list shall be determined in the same manner as for the order of layoff except in the inverse order thereof.

Employees on the reinstatement list shall have the first right of reinstatement to any vacancies in any department for the class for which he/she is eligible for such reinstatement, subject to the following:

1. A new probationary period shall not be required of an employee reinstated to a department from which he/she was laid off.
2. A new probationary period shall be required of an employee reinstated to a different department than that from which he/she was laid off, except that failure of probation shall return the employee to the reinstatement list. In no event shall such failure of probation extend the employee's placement on the reinstatement list beyond three (3) years from the date of placement on it.
3. A reinstated employee will regain his/her seniority credit possessed at the time he/she was laid off, which shall count for purposes of vacation accrual rate and step increase. In addition, the employee's sick leave balance (except for that portion for which the employee paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated.

### Section 2. Smoking

The administration and regulation of smoking in County facilities shall be in accordance with the amended Ordinance (New Series), County of San Diego Administrative Manual/Board of Supervisors Policy, as adopted by the Board of Supervisors and administered by the Chief Administrative Officer.

### Section 3. Drug and Alcohol Use Policy

The County may revise the Drug and Alcohol Use Policy prior to the expiration of this MOA and shall provide an opportunity for the Association to meet and confer over the revised policy.

## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

### Section 4. Job Sharing

Requests for job sharing may be submitted to the appointing authority who will consider them on a case-by-case basis.

### Section 5. Labor Management Committee

A Labor Management Committee shall be established to review, discuss, and/or make recommendations on issues of mutual concern that are related to employees covered by this Agreement.

- A. The Labor Management Committee will:
1. Focus on service, productivity and quality improvements and the problem solving of operational issues inclusive of training, health and safety.
  2. Recommend improvements in processes, methods, systems or job aids, necessary to improve job quality and quantity.
  3. Communicate the impact of operational changes.
- B. The Committee shall be comprised of three (3) employee representatives and three (3) representatives from the County.
- C. The Committee shall meet at least quarterly, or upon mutual agreement of the parties.
- D. Grievances and adverse actions shall not be discussed at such meetings. Matters subject to the duty to bargain may be discussed and recommendations may be made in writing to the County/Association bargainers. The Committee shall not have the authority to add to, amend, or modify this Memorandum of Agreement or other County policies.
- E. Meetings: The Committee shall be authorized to meet on County premises and on County time, not to exceed two (2) hours per meeting.
1. Pay shall be allowed only if the employee has been excused from duty in advance, meeting is held during employee's scheduled straight-time working hours, and employee would have worked had the employee not attended such meeting.
  2. The time paid for shall be limited to actual meeting time, plus necessary time spent during scheduled straight-time working hours in traveling between the employee's work location and the meeting location.

## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

- F. When a Committee meeting ends a reasonable time prior to the completion of scheduled working hours, an employee who would be working if not attending such meeting, shall return to work.
- G. Upon a mutually agreed recommendation of the parties of the Committee, the County and the Association shall meet and confer on the establishment of a separate committee to solely address health and safety issues.

### Section 6. Legal Representation

Upon request of an employee and subject to any limitations provided by law, the County will provide for the defense of any civil action or proceeding initiated against the employee by a person or entity other than the County in a court of competent jurisdiction on account of any act or omission occurring within the course and scope of his/her employment as an employee of the County.

Nothing herein shall be deemed to require the provision of such defense where the discretion to provide or not provide such defense is vested in the County pursuant to the provisions of the California Government Code, now and as amended or where the act or omission was not within the scope of the employee's employment, or the employee acted or failed to act because of actual fraud, corruption or actual malice, or where the provision of such defense would create a conflict of interest between the County and the employee.

Nothing herein shall be construed to grant to any employee any rights or privileges in addition to those provided in the said Government Code, or to abrogate any rights provided under the Government Code.

### Section 7. Personnel Files

An employee, or an Association representative with the written consent of the employee, may inspect that employee's personnel file with the exception of all material obtained from other employers and agencies at the time that employee was hired. Employees shall normally request such files forty-eight (48) hours in advance of such inspection.

An employee shall be entitled to read any statement, written by the employee's supervisor or departmental management, on his/her work performance or conduct if such statement is to be filed. No such statement shall be filed before all County appeal rights are exhausted. If such a statement is inadvertently filed before all County appeal rights are exhausted, the employee may request sealing of the applicable portions of his/her file by the Civil Service Commission. The request for sealing may be made after a decision on the appeal has been rendered. All such statements on which filing is delayed pending completion of the County appeal process, shall be filed upon the rendering of a decision, if such decision upholds the statement or charges against the employee in whole or, if upheld in part, it shall be filed as amended.

## ARTICLE 10. PERSONNEL PRACTICES (Cont'd)

The employee shall acknowledge reading such material by affixing his/her signature on the actual copy to be filed, with the understanding that such signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to initial, the supervisor will sign, noting the refusal of the employee to initial.

Disciplinary action includes a letter of warning, written reprimand, suspension, demotion, or discharge. If the department takes disciplinary action against an employee, the department, upon request of the employee, will furnish the employee a copy of all documents or written statements used by the department as a basis for its action.

At the time of conferences, meetings, or hearings held for the purpose of disciplinary action as defined in the paragraph above or which the employee believes may result in disciplinary action, the employee shall have the right to representation, including Association representation.

All correspondence of commendation shall be entered as a permanent part of an employee's personnel file, except where they are shown to be frivolous. In that case, they shall be returned to the employee.

Any document that was mistakenly placed in the employee's personnel file shall be removed from the personnel file by the Department of Human Resources upon the written request of the employee and the employee's appointing authority.

### Section 8. Employee Recognition Programs

Employee recognition programs may be initiated in County departments. The purpose of such programs will be to recognize exemplary employees and improve public services through enhanced motivation. The establishment, disestablishment, administration and regulation of all employee recognition programs shall be at the discretion of the Chief Administrative Officer. Such programs as are established shall not be subject to appeal under the Grievance Procedure of the Agreement.

### Section 9. Personal Security

An employee who is wounded or seriously injured as the result of a criminal act by another during an incident arising from or directly related to the performance of his/her duties, may, upon the determination of the Appointing Authority or their designee, be provided with appropriate security during his/her period of hospitalization. The determination of appropriate security rests solely with the appointing authority and is not subject to the grievance and arbitration procedure.

## ARTICLE 11. GRIEVANCE PROCEDURE

### Section 1. Definition

## ARTICLE 11. GRIEVANCE PROCEDURE (Cont'd)

A. This grievance procedure shall be applied in resolving grievances filed by employees covered by this Agreement during the term of this Agreement. A grievance is defined as an allegation by an employee or a group of employees that the County has failed to provide a condition of employment which is established by this Agreement or by a written departmental policy or procedure. This grievance procedure shall not apply to matters:

1. Over which the Civil Service Commission has jurisdiction;
2. Covered by the Labor Relations Ordinance;
3. Concerning Performance Reports;
4. Concerning informal discipline including counseling, oral warnings, and letters of warning.
5. Concerning any other subjects, unless the subject is covered by the expressed terms of this Agreement or any portion of a departmental Policy or Procedures Manual that relates specifically to wages, hours and other terms and conditions of employment.

B. Letters of Reprimand shall be subject to a limited grievance procedure which shall not extend beyond the Appointing Authority and shall not be subject to the arbitration provisions set forth below.

### Section 2. Filing Deadlines

A grievance shall be void unless filed in writing within twenty-one (21) calendar days from the date upon which the County has allegedly failed to provide a condition of employment which has been established by this Agreement as specified in Article 11., Section 1., or within twenty-one (21) calendar days from the time at which an employee might reasonably have been expected to have learned of the alleged failure. In no event shall a grievance include a claim for money relief for more than the twenty-one (21) day period plus such reasonable discovery period.

### Section 3. Informal Discussion with Employee's Supervisor (Step 1)

Before proceeding to the formal grievance procedure, an employee shall discuss his/her grievance with his/her immediate supervisor in private and endeavor to work out a satisfactory solution. If the employee and his/her immediate supervisor cannot work out a satisfactory solution, the employee may then choose to represent himself/herself individually, or he/she may request the assistance of a representative who has been designated pursuant to Article 2., Section 4., "Employee Representatives," in reducing to writing and formally presenting the grievance.

### Section 4. Formal Written Grievance to Employee's Supervisor (Step 2)

## ARTICLE 11. GRIEVANCE PROCEDURE (Cont'd)

- A. If the employee chooses to formally pursue his/her grievance, he/she shall present the written grievance to his/her supervisor within seven (7) working days after the date of such informal discussion described in Section 3. above. The written grievance shall specify the Article, Section, and/or Subsection of this Agreement and/or written departmental policy or procedure which is alleged to have been violated by the County, and shall specify with particularity facts necessary to a clear understanding of the matter being grieved.
- B. The immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing within seven (7) working days after receipt of the grievance. If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the supervisor's answer within which to file an appeal to the appointing authority.

### Section 5. Grievance to Appointing Authority (Step 3)

The appointing authority shall have seven (7) working days in which to review, and answer the grievance in writing. Unless waived by the mutual agreement of the employee or his/her representative and the appointing authority, a meeting is required at this level to discuss the grievance issue and the positions' of the parties, and the employee and his/her representative shall have the right to be present and participate in such meeting. The time limit at this level may be extended by mutual agreement between the appointing authority and the employee or his/her representative.

### Section 6. Advisory Arbitration of Grievances (Step 4)

In the event that the grievance is not resolved by the appointing authority, the grievant or his/her representative may, within thirty (30) calendar days after receipt of the decision of the appointing authority made pursuant to Section 5., request that the grievance be heard by an arbitrator.

### Section 7. Informal Review by Labor Relations Division (Step 5)

Prior to the selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Labor Relations Division shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Labor Relations Division shall have ten (10) work days in which to review and seek adjustment of the grievance.

### Section 8. Selection of Arbitrator

The arbitrator shall be selected by mutual agreement between the Labor Relations Division and the employee or his/her representative. If the Labor Relations Division and the employee or his/her representative are unable to agree on the selection of an arbitrator, they shall jointly request the State Mediation and Conciliation Service to submit a list of seven qualified arbitrators. The Labor Relations Division and the



## ARTICLE 11. GRIEVANCE PROCEDURE (Cont'd)

employee or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.

### Section 9. Duty of Arbitrator

Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be advisory in nature. The decision of the arbitrator shall be based solely on the interpretation of the appropriate provisions of the Memorandum of Agreement applicable to the grievance, and he/she shall not add to, subtract from, modify or disregard any of the terms or provisions of the Agreement.

The provisions for arbitration are not intended and shall not be construed to empower an arbitrator to change any condition of employment, specifically covered by the Memorandum of Agreement, or to revise, modify or alter, in any respect, any provision contained in the Agreement.

### Section 10. Payment of Costs

Each party to a hearing before an arbitrator shall bear his own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne one-half (½) by the County and one-half (½) by the Association.

### Section 11. Effect of Failure of Timely Action

Failure of the employee to file an appeal within the required time period at any level shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any level shall result in an automatic advancement of the grievance to the next level. Upon mutual agreement of the parties in writing, timelines may be extended up to fourteen (14) calendar days.

### Section 12. Employee Independent Representation

In those cases in which an employee elects to represent himself/herself or arranges for independent representation, the County shall make no settlement or award which shall be inconsistent with the terms and conditions of this Memorandum of Agreement. In the event the Association shall determine that such inconsistent award has been made, the Association, on its own behalf, may file a grievance pursuant to Section 1. of this Article for the purpose of amending such award.

In the event any unrepresented or independently represented employee shall elect to go to arbitration under Section 6. hereof, the Association may elect to be a full and equal part to such proceeding for the purpose of protecting the interests of its members in negotiated conditions of employment.

## ARTICLE 12. AGREEMENT, MODIFICATION AND WAIVER

### Section 1. Agreement

This Memorandum sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.

### Section 2. Waiver

The waiver of any breach, term or condition of this Memorandum by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

### Section 3. Meet and Confer

Except as specifically provided herein, it is agreed and understood that the parties hereto reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered herein, during the term of this Memorandum.

### Section 4. Modification

No agreement, alteration, understanding, variation, waiver, or modification of any of these terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto and, if required, approved and implemented by the County Board of Supervisors.

## ARTICLE 13. PROVISIONS OF LAW

If any provision of this Memorandum is invalid by operation of law or by any court of competent jurisdiction, or if compliance with or enforcement of any provision is restrained by any tribunal, the remainder of this Memorandum shall not be affected thereby.

## ARTICLE 14. PROHIBITION OF JOB ACTION

Notwithstanding any other provision of this Memorandum of Agreement to the contrary, both parties and each employee in a classification represented by the Association agree that:

- A. The unimpaired continuation of County services is of paramount importance to County residents. Therefore, during the term of this Memorandum of Agreement and for a one hundred and eighty (180) calendar day period following the expiration of the term of this Memorandum of Agreement or conclusion of the

## ARTICLE 14. PROHIBITION OF JOB ACTION (Cont'd)

impasse process (Article IV, Section 4, of the San Diego County Labor Relations Ordinance), whichever occurs later, neither the Association nor any employee represented by the Association shall cause, authorize, engage in, or sanction any type of job action which results in less than the full and faithful performance of the duties of employment.

- B. An employee who engages in an activity prohibited in Article 14, Section A. hereinabove, shall not be entitled to any wages or County-paid benefits whatsoever for the period of the job action. To effectuate this provision, the County may, subject to reasonable notification and opportunity to state, in writing, the employee's position, make payroll adjustments in individual employee's warrants.
- C. In addition to the administrative adjustments authorized by Article 14, Section B. hereinabove, the County reserves the right to take appropriate disciplinary action for such job action including, but not limited to, discharge.
- D. If the Board of Supervisors, by majority vote, determines to its satisfaction, that Article 14, Section A. hereinabove has been violated by the Association, the County may take action(s) as it deems appropriate.
- E. The Association, its representatives, and represented County employees shall comply with the provisions of this Memorandum of Agreement and shall make every effort toward inducing all employees in this unit to fully and faithfully perform their duties. In the event of any activity prohibited by Article 14, Section A. hereinabove, the Association, its representatives, and represented County employees agree to take appropriate steps necessary to assure compliance with this Memorandum of Agreement.

## ARTICLE 15. IMPLEMENTATION

This Memorandum constitutes a mutual recommendation to be jointly submitted to the County Board of Supervisors. It is agreed that this Memorandum shall not be binding upon the parties either in whole or in part unless and until:

- A. The Board of Supervisors acts, by majority vote, formally to approve and adopt said Memorandum.
- B. The Board of Supervisors acts to appropriate the necessary funds required to implement the provisions of this Memorandum which require funding.

The County shall act in a timely manner to make the necessary changes in ordinances, resolutions, rules, policies and procedures to implement and conform to this Agreement.

## ARTICLE 16. NEGOTIATION OF SUCCESSOR AGREEMENT

In the event the Association desires to meet and confer in good faith on the provisions of a successor memorandum, it shall serve upon the County its written request to commence meeting and conferring in good faith for such successor memorandum. Negotiations shall begin at a time mutually agreeable to the parties.

## ARTICLE 17. RE-OPENER PROVISIONS

### A. Revisions to Civil Service Rules and Procedures

Notwithstanding any other provisions of this Agreement (with specific reference to Article 12), the Association agrees to meet and confer with the County upon request regarding revisions to Civil Service Rules and procedures and to re-open those provisions of this Agreement, if necessary.

1. Article 4.A – Salaries, except that no employee’s current wages will be reduced as a result of revision to Civil Service Rules.
2. No employee’s classified status will be changed as a result of revisions to the Civil Service Rules.

### B. Enterprise Resource Project (ERP) – Modernization of Business Systems

Notwithstanding any other provisions of this Agreement (with specific reference to Article 12.), the Association agrees to meet and confer with the County upon request from the County regarding matters within the scope of representation pertaining to implementation of ERP software applications and IT issues and to re-open those provisions of this Agreement which may be affected.

### C. Health Plan Task Force

In the event that a health provider bidding program results in benefit modifications or if other benefit modifications are necessary during the term of this Agreement, and notwithstanding any other provision of this Agreement (with specific reference to Article 12.), Article 9., Section 2., entitled “Insurance/Flexible Benefits Plan” shall be re-opened.

The Public Defender Association of San Diego County will have a representative on the standing Health Plan Task Force.

## ARTICLE 18. DETERMINATION BY THE BOARD OF SUPERVISORS

ARTICLE 18. DETERMINATION BY THE BOARD OF SUPERVISORS (Cont'd)

This Memorandum is hereby submitted to the San Diego County Board of Supervisors by the Labor Relations Division and the Association for the Board's consideration and approval. Upon approval, this Memorandum shall become binding upon the County, the Association and all of the employees in the representation units covered by this Memorandum.

Jointly submitted and recommended this 21st day of March, 2017.

FOR THE COUNTY OF SAN DIEGO:

FOR THE PUBLIC DEFENDER  
ASSOCIATION OF SAN DIEGO  
COUNTY (PD AND PM UNITS):

\_\_\_\_\_  
BRAD RANKIN  
Deputy Director Human Resources

\_\_\_\_\_  
JO E. SUPER, President