



Monterey County

Board Order

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Salinas, CA 93901
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Agreement No.: A-12300

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta, and carried by those members present, the Board of Supervisors hereby:

Approved the Memorandum of Understanding (MOU) for Resident Physicians Unit R for January 1, 2012 through December 31, 2014.

PASSED AND ADOPTED on this 28th day of August 2012, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on August 28, 2012.

Dated: September 5, 2012
File Number: 12-739

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

MEMORANDUM OF UNDERSTANDING

Between
County of Monterey
And
Service Employee International Union (SEIU)
Local 521

Resident Physicians Unit R

January 1, 2012 through December 31, 2014



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SECTION 1- PARTIES

This agreement is made and entered into between the County of Monterey (herein called the "County"), and the Service Employees International Union, Local 521CTW-CLC (herein called "Union") It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by the act of providing the appropriate legislation shall not become effective until the effective date of such action.

SECTION 2- TERM

The term of the memorandum of understanding is from January 1, 2012 to December 31, 2014 when said Memorandum shall expire and be of no further force or effect.

SECTION 3- RECOGNITION

The County recognizes the Union as the sole and exclusive bargaining agent for employees in the classifications of Resident Physician (I, II and III).

SECTION 4- NONDISCRIMINATION

The provisions of this Memorandum of Understanding shall be applied equally to all employees covered hereby without discrimination because of race, color, gender, age, national origin, religious affiliation or Union membership.

Employees may elect to exercise their right to join and participate in the activities of the Union for the purposes of representation in all matters of their working conditions and employer-employee relations. The parties agree that there shall be no restraint, coercion, or interference with any employee with respect to or because of the employee's membership in said Union. The Union and the County agree to support the Monterey Plan for Equal Opportunity established by the County and that there shall be no discrimination within their respective organizations because of race, creed, gender, color, national origin, age, disability or political belief.

Any party alleging a violation of this article shall have the burden of proving the existence of a discriminatory act or acts and of proving that, but for such act or acts, the alleged injury or damage the grievant would not have occurred.

SECTION 5- COUNTY OBLIGATION

The County agrees, except for condition outside its control, to provide an educational program of teaching excellence that is approved by the American Medical Association under its standards called "Essentials of Approved Residents" and that is accredited by the American Board of Family Practice.

In the event that Residents have concerns regarding educational aspects of the Residency Program, the Chief Residents shall bring such concerns to the attention of the Director of Family

Practice Residency Program for resolution. If no resolution is achieved within fourteen (14) calendar days, the Chief Residents shall bring the concerns to the Medical Director. The Medical Director shall consult with the appropriate member(s) for the medical staff regarding the County's obligation to provide an educational program of the excellence and the staff's responsibility to fulfill that obligation.

SECTION 6- RESIDENT OBLIGATION

A limited reopener to be held after ninety (90) day operational review of current process by a stakeholder committee to consist of three (3) residents and three (3) NMC staff. Ninety (90) day operational review to begin after the adoption of this MOU.

Each Resident agrees to fulfill the educational requirements of the graduate training program, and accepts the obligation to use his/her efforts to provide and ensure safe, effective and compassionate patient care as assigned, in accordance with the American Medical Association "Essential of Approved Residencies," the rules and regulations of the hospital, and the rules and regulation of the medical staff and the residency program.

- A.** Each Resident agrees to comply with all laws, regulations and executive orders to which the County and the medical community at large are subject.
- B.** The Resident will keep medical obligations current (e.g. no delinquent charts). The State of California defines a medical record as delinquent if it remains incomplete fourteen (14) after discharge. Resident Physicians will be notified at least every two weeks regarding outstanding incomplete records in his/her file, and are required to complete such records as are available to them within 7 days of such notice. Residents will be responsible for completing all available medical records within five (5) working days prior to leave or vacation and upon five (5) working days of their return.

C. Incentive Program

It is in the hospital's best interest to remain in current and in compliance with State regulations related to medical records.

An assessment of the Resident's medical record status will be made on the first day of each month for the previous month (e.g. February 1 for the month of January). If the Resident has completed 100% of his/her medical record obligations, the Resident will be paid the incentive bonus.

This incentive bonus will be equal to \$150 per month payable monthly on the next regularly occurring full payroll period.

Penalty

It is expected the Residents will complete medical records in a timely fashion and in accordance with state and federal regulations.

Step 1

Should the Resident not complete, authenticate and sign his/her medical records within 14 days, he/she will be notified in writing by the medical records department.

Step 2

Should the Resident not complete, authenticate and sign his/her medical records within 7 days of Step 1, s/he will be placed on the Suspension List ("Red List") in accordance with Medical Staff Bylaws.

Step 3

After meeting with the Residency Director (or his/her designee) the Director shall develop a plan with the Resident's input to ensure completion of the medical records. At his/her discretion, the Director may grant an extension for extraordinary circumstances.

Step 4

If the Resident does not complete his/her outstanding Medical Record obligation as directed by the Director within 5 working days of the meeting with the Director, said Resident will be penalized 10% of his/her pay for the equivalent of a period of not less than one week. The penalty will continue weekly as long as charts remain delinquent in excess of 31 days.

Step 5

- A. If there is no response to the notice and after steps 1-4 have been completed, the Chair of the Medical Record Committee, the President of the Medical Staff and the Director of the Family Practice Residency Program are notified and the Resident will be placed on unpaid Administrative Suspension. Unpaid Administrative Suspension as used herein means: The Employee is disallowed from performing any services to the County including providing patient care, attending educational in-service training and on-call duty. If available medical records are not completed within three (3) working days after Unpaid Administrative suspension, further disciplinary action may be taken, up to and including termination of employment.

The County agrees to have dictation equipment available at all times for Resident use.

- B. In accordance with State law, each Resident must obtain their California Physician's and Surgeon's Certificate by the end of their second postgraduate year. If a Resident does not have a license by the end of the second postgraduate year, she/he may be terminated after recommendation of the Postgraduate education Committee or she/he may be placed on leave without pay until she/he obtains the Certificate.

SECTION 7- UNION RIGHTS

7.1 Representation

The Union has the right to represent employees in the representation unit as specified by state law and pursuant to the County Employer-Employee Relations Resolution. The Union will notify

the County and maintain such notice during the terms of this agreement of its elected officers and directors as well as its staff employees.

The Union may select up to three (3) persons in addition to its staff members to act as official representatives and will notify the County as to those individuals so selected. Official representatives shall represent the Union in jointly scheduled meetings with the County to address matters of mutual concern.

7.2 Union Access

Authorized Union staff representatives shall have reasonable access to all work locations in which employees covered hereby are employed for the purpose of transmitting information or representation purposes. Authorized Union staff representative desiring such access shall first request permission from the appropriate Management representative, at which time the authorized representative shall inform said Management representative of the purpose of the visit. Said Management representative may deny access to the work location if in his or her judgment it is deemed that a visit at that time will interfere with the operations of the department or facility thereof, in which event said Management representative will offer an alternative time or/ and location for the visit.

The Union shall give to the department head having employees in the unit and the CAO or designee, a written list of the names of all authorized Union staff representatives, which list shall be kept current by the Union. Access to work locations shall be granted only to the Union staff representatives on the current list.

7.3 Bulletin Board

The County will furnish, for the use of the Union, reasonable bulletin board space at a reasonable location. Such bulletin board space shall be used only for the following subjects:

- Union Recreational, social and related news bulletins'
- Schedule Union meetings;
- Information concerning Union elections or the results thereof;
- Reports of official business of Union including reports of committees or the Board of Directors; and
- All material shall clearly state that it is prepared and authorized by the Union.

The Union agrees that notices posted on County bulletin boards shall not contain anything which may reasonably be construed as maligning the County, or its representatives or any individual in any manner whatsoever.

7.4 Dues Deduction

The County agrees to deduct, as a single deduction, dues for employees in the unit and such other deductions as approved by the Union Board of Directors and authorized in writing by

the individual employees concerned on forms currently accepted by the Auditor-Controller for such deductions.

7.5 Maintenance of Membership

- A. Except as otherwise provided herein, each employee who, on the effective date of this Agreement, is a member in good standing of the Union shall thereafter maintain such membership for the duration of this Agreement, except as provided herein, to the extent of paying the periodic dues uniformly required by the Union as a condition of retaining membership.
- B. Any employee who becomes a member of the Union shall thereafter maintain such membership for the duration of the Agreement, except as otherwise provided herein.
- C. Any employee who is or becomes a Union member has the right to resign such membership. Resignation must be tendered during the month of October in the year that the MOU expires. Resignation requires written notice to the Union with a copy to the County Auditor-Controller. Failure to provide timely notice constitutes waiver of the right to resignation until the following October.
- D. In the event that any employee who was a member on the effective date of this Agreement, or who became a member thereafter refrains from paying the periodic dues, at the request of the Union the Natividad Medical Center Personnel Office shall notify the employee in writing of his/her contractual obligation to authorize a payroll dues deduction. If after such notification the employee fails to authorize payroll dues deduction, the Union may seek enforcement through the courts.
- E. The Union shall indemnify the County and hold it harmless against any and all suits, claims, demands and liabilities that may arise out of or by reason of the application of or implementation of the provisions of this article.

7.6 Quarterly Meeting Updates

There will be quarterly meetings to allow for communication between the residents and NMC. The meetings will consist of NMC's Chief Medical Officer, Residency Director and Human Resources Administrator; and Chief Resident(s), or their designee in the absence of the Chief Resident(s) and Union Representative.

7.7 Use of County Email System

The County Email system may be used for Union Business in the following way:

- To send communications to the Administrative Office, Department Heads or other management personnel.
- To send communications to the Officers of the Union and Shop Stewards.
- To send communications to the members notifying them of union meetings.

- To send communications to the members regarding updates of statewide issues which may have impacts on their work such as: legislative changes, upcoming legislation, programmatic materials, research documents or articles addressing innovative changes in the field, state budget updates.

The following restrictions apply to use of the County Email system for Union Business:

- No broadcasting of messages.
- No confidential or individual-specific information may be communicated, such as information regarding a disciplinary action, etc.
- Messages may not malign the County, its employees or officials.
- Messages may not be used to coordinate job actions.

Violation of the County's Email Policy could result in the permanent revocation of this privilege.

SECTION 8- MANAGEMENT RIGHTS

The County will continue to have, whether exercised or not, all the rights, powers and authority heretofore existing, including, but not limited to the following: Determine the standards of services to be offered by the constituent departments; determine the standards of selection of employment; direct its employees; take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons; issue and enforce rules and regulations; maintain the efficiency of governmental operations; determine the methods, means and personnel by which the County operations are to be conducted; determine job classifications of county employees; exercise complete control and discretion over its work and fulfill all of its legal responsibilities. All the rights, responsibilities and prerogatives that are inherent in the County by virtue of all federal, state and local laws and regulations provisions, cannot be subject to any grievance or arbitration proceeding.

The exercise of foregoing powers, rights, authority, duties and responsibilities by the board of Supervisors, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this agreement, and then only to the extent such specific express terms hereof are in conformance with the Constitution and Laws of the United States and the Constitution and Laws of the State of California.

The exercise by the County through its Board and management representatives of its rights hereunder shall not in any way, directly or indirectly, be subject to the grievance procedure set forth herein.

SECTION 9- SALARIES

A. Wage and Parity Studies

Annually the County of Monterey and SEIU Local 521- Unit R will jointly conduct a parity study utilizing the following residency programs:

- UCSF General Hospital

- Santa Rosa Sutter Medical Center
- Contra Costa Medical Center
- Ventura County Medical Center
- O'Connor Hospital- San Jose, California

Upon completion of the study, the SEIU and the County will meet and review the data. Should the data show that Total Compensation falls below the 85th percentile²; the parties will reopen the MOU to discuss wages only according to the following provisions:

1. The Parity Study should begin in July of each year for the reopener to discuss wages only for the following:
 - a. July 2012 for November 2012 reopener
 - b. July 2013 for November 2013 reopener
 - c. July 2014 for the negotiations for the succeeding MOU
 2. Total compensation will include Resident III top step base salary plus employee-only health insurance premium.
- B. In performance of this agreement, the Resident shall be an employee of the County of Monterey; all payments and compensation to be received by the Resident, hereunder, will be subject to usual deductions and withholdings for income tax and the like purpose required by law; the Resident will be covered by the County's Workers' Compensation insurance.

SECTION 10- BILINGUAL SKILL PAY

Bilingual positions are positions required on a regular basis for an amount of time that, on the average, equals twenty percent (20%) or more of the total work time to utilize bilingual skills in order to perform the job duties. A bilingual designation is assigned to a position or if the bilingual designation of the position is removed because the duties no longer meet the criteria for such designation, his/her bilingual pay will cease.

Qualifications:

Ability to qualify for certification of demonstrated proficiency in the required language by the CAO or his/her designee shall be a requirement for employment in a bilingual position, and obtaining certification appropriate for the position within the initial thirty (30) days of employment shall be a condition of continued employment.

Bilingual Pay:

Bilingual pay shall be paid to an employee who has certification of proficiency in the required language as appropriate for the position starting with the first full pay period following verification.

An employee occupying a bilingual position shall be paid a bilingual pay differential of forty-two dollars (\$42.00) per pay period.

Spanish Classes:

Natividad Medical Center will identify an in-person and/or online Spanish class to be offered, on a volunteer basis, to Resident Physicians at least once per fiscal year.

Once a class is identified, the NMC Education Department will survey the Resident Physicians to determine the number of people interested in taking the class. For NMC to contract with and hold a Spanish Class, at least half (½) of the minimum required students must be Resident Physicians. The minimum of students required will be determined by the vendor. NMC will identify a class with a minimum no greater than ten (10).

The Spanish class will be offered; free of charge, for Resident Physicians enrolled in the Spanish class who attend at least eighty (80) percent of the sessions required to complete the course.

Resident Physicians shall pay a penalty of one hundred and fifty dollars (\$150.00) if they sign up for and do not complete at least eighty (80) percent of the course. The penalty shall be paid through a County of Monterey payroll deduction. Resident Physicians shall pay a penalty of one hundred and fifty dollars (\$150.00) if he/she withdraws from the class. The penalty shall be paid through a County of Monterey payroll deduction.

Participation in a Spanish class is voluntary. Time spent by Resident Physicians participating in the Spanish class shall not be included in regular duty hours or included in the hours required for their residency.

SECTION 11- SPECIAL RESIDENT PHYSICIAN BENEFITS

11.1 Meals/Laundry

The County shall provide the Resident Physicians a meal card by which the Resident may charge all meals served at the hospital cafeteria during assigned hours of employment. The value of meal program shall not exceed #360 per month. Laundry will be provided for uniforms, scrub suits and doctor's coats which are obtained for each Resident upon appointment.

11.2 Malpractice Insurance

There will be in full force and effect at all times during the term of this agreement, malpractice and professional liability insurance coverage with respect to medical and surgical care and treatment and other services performed by the Resident within the course and scope of his/her employment under this agreement. Said coverage shall be free of charge to the Resident.

11.3 Living Quarters

New residents shall be eligible to receive up to two thousand dollars (\$2,000) for moving expenses upon the submittal of receipts for such moving expenses.

This benefit is provided in lieu of the County's "Employee Relocation/Moving Allowance" policy program.

11.4 Residency Travel

The County will provide residents, at its option, either a County car or reimbursement at the sum equal to the maximum Internal Revenue Service Rate per mile for travel to and from all rotations outside of the hospital (excluding away electives).

11.5 Licensed Third Year Residents

Licensed Third Year Residents have an opportunity to render services to emergency psychiatric patients in the events an attending physician is not available.

A "call list" shall be established for Licensed Residents who choose to participate in the program.

Assignments to attend to psychiatric patients will be made based on the "call list" and the Residents' physical presence at the hospital. The Residents will be paid \$50 per visit. In no way shall this pay be considered overtime pay.

SECTION 12-PROFESSIONAL STIPEND

The County will pay \$50 per month to each bargaining unit employee as a professional stipend.

SECTION 13- BENEFITS

13.1 Medical Insurance

The County will provide medical insurance through the Public Employees' Retirement System (PERS) medical insurance program. All rules, regulations and procedures with respect to plan eligibility, benefits, claims payments and customer service procedures, etc for the CalPERS plans are established by CalPERS. The County makes no representations or guarantees whatsoever with respect to the CalPERS health insurance plans.

Permanent unit employees who are regularly scheduled to work 40 hours or more in a pay period will be eligible to participate in any of the County's health insurance programs.

Retired employees, dependent upon group coverage conditions, may be eligible for group health care coverage. If a retired employee meets all eligibility requirements and requests health insurance coverage, the County will contribute the CalPERS required monthly premium toward the monthly premium for eligible retirees enrolled in any of the County's insurance programs

13.2 Flexible Benefits Plan

A. General Provisions

The County shall make available a Flexible Benefits Plan to all employees. Employees may elect from the following optional benefits:

- Employee medical coverage under CalPERS
- Dependent medical coverage under CalPERS
- No medical coverage
- Employee dental coverage under the County's self-funded plan
- Dependent dental coverage under the County's self-funded plan
- No dental coverage
- Employee vision coverage under VSP
- Dependent vision coverage under VSP
- No vision coverage
- Any other eligible optional benefits which may be made available by the County through this Flexible Benefits plan

1. Additional Payroll Deduction

For each month when the benefit options selected by the employee under this plan exceed the appropriate County non-elective and elective contributions for that employee, that employee shall pay by pre or post-tax payroll deduction the full cost (100%) which exceeds the County's contributions for that employee.

2. Flexible Benefits Plan Administration

The provisions, rules and regulations governing the administration of the Flexible Benefits Plan are contained in the Flexible Benefits Plan document. Changes may be required from time to time to maintain the integrity of this flexible benefits plan as a lawful IRS Section 125 plan. The County and the union agree that the County shall have discretion to make such changes to ensure this plan is eligible for favorable treatment under the Internal Revenue Code. The County may add or remove benefit options to or from this plan during the term of this agreement, subject to the obligation of the parties to meet and confer only over the impact of such changes. Removal of a benefit shall occur only if the benefit is deemed contrary to public law or regulation governing I.R.S. Section 125 benefit plans, is no longer available by vendor, or becomes insolvent.

B. County Non-Elective Contributions

The County maximum non-elective contributions toward the Flexible Benefits Plan will be as indicated below.

The County shall not contribute any non-elective amounts toward the employee's purchase of any other optional benefits which may be provided by the County through the Flexible Benefits Plan.

Employees shall not have the option of using the non-elective contributions for any other purpose other than for purchasing employee health, employee dental and employee vision insurance. Non-elective contributions not used to purchase employee health, dental and vision insurance will be forfeited.

Health Insurance Contribution

The County's maximum non-elective contribution to the Flexible Benefits Plan for health insurance coverage will be as designated by PERS AND shall conform to the PERS mandated employer payments.

Dental Insurance Contribution

The County's maximum non-elective contribution to the Flexible Benefits Plan for dental coverage will be equal to the cost of the employee only premium monthly for all eligible permanent employees. During the term of this contract, should the dental (employee only premium) non-elective contribution/premium increase, the County will pay the increase. Should, during the term of this contract, the non-elective contribution/premium for dental (employee only premium) decrease, the County shall retain the savings from the decrease.

Vision Insurance Contribution

The County's maximum non-elective contribution to the Flexible Benefits Plan for vision coverage will be equal to the cost of the employee only premium monthly for all eligible permanent employees. During the term of this contract, should the vision (employee only premium) non-elective contributions/premium increase, the County will pay the increase. Should, during the term of this contract, the non-elective contribution/premium for vision (employee only premium) decrease, the County shall retain the savings from the decrease.

C. County Elective Contributions

The County maximum monthly elective contribution to the employee's Flexible Benefits Plan spending fund may be applied toward medical, dental and/or vision coverage for the employee and dependents. Any future increases in health insurance premiums that exceed the County's elective contribution will be paid by the employee through salary deduction.

The County shall increase its contribution to the health insurance Flex Benefit program in an amount sufficient to limit the employee's cost in the "employee only" category to zero out-of-pocket expense for PERS Choice (Northern California)³.

The County shall increase its contribution to the Health Insurance Flex Benefit program in an amount sufficient to limit the employee's cost in the "employee plus-family" category to \$100.00 out-of-pocket expense for PERS Choice (Northern California).

Any balance of elective funds remaining after the employee elects health insurance may be utilized, at the employee's discretion, toward the purchase of dependent health, dependent dental, or dependent vision insurance and/or any other eligible optional benefits which may be made available by the County through this Flexible Benefits plan. The use of any elective contributions toward the purchase of the benefits stated above is subject to the employee first selecting employee health insurance coverage under CalPERS.

Elective Contribution Payout

For each month that the County elective contribution is not used by an employee to obtain benefit options under this plan, the full amount of funds not utilized shall be paid out, provided the employee has purchased at least employee only health insurance through

CalPERS. Bargaining Unit members shall receive a health & welfare benefit stipend of \$240 per month. The \$240 will first be applied to the cost of benefits and any excess between the \$240 and the cost of the benefit level selected by the unit member shall be paid to the employee each month⁴.

Should any increases to the flexible benefit allowance for Management Unit (X Unit) employees be realized during the term of this Agreement, those increases shall also be provided to employees of this bargaining unit (R Unit) in an amount sufficient to maintain the existing benefit levels of \$0.00/\$61/\$100 for "employee only," "employee plus one" and "employee plus family" respectively.

³ Part time employees receive ½ of the Flex Credits to apply toward their premiums but do not have a benefit guarantee of \$0/\$61/\$100 out of pocket.

⁴ There is no intent in the structure of this language to change the practice in effect as of December 31, 2008.

13.3 Alternative Benefit Option

Employees providing proof of alternative health insurance coverage shall be reimbursed up to \$263.00 per month for employee/subscriber only coverage for him/herself and \$240.00 for dependent coverage under this option.

Eligible, part-time unit employees, who are scheduled to work a minimum of forty (40) hours but less than sixty-four (64) hours in a pay period, providing proof of alternative health insurance coverage, shall be reimbursed up to \$132.00 per month for employee only coverage and \$120 for dependent coverage under this option.

Part-time unit employees, who are scheduled to work less than forty (40) hours in a pay period, are not eligible for the Alternative Benefit Option.

Employees choosing the ABO option cannot apply ABO benefit dollars towards options under the Flexible Benefits Plan.

Administration of this option shall be subject to County guidelines. Employees who select employee only coverage but do not select dependent coverage under the ABO benefit will be eligible to cash out the dependent ABO amount as taxable wages. Employee only dollar benefits are not cashable under any circumstances. County and Resident Physicians may, by mutual agreement, agree to reopen this Article and meet and confer regarding its terms and conditions at any time during the term of this MOU.

13.4 Life

County agrees to provide twenty thousand dollars (\$20,000) in life insurance for employees.

13.5 Long-Term Disability Insurance

The County will facilitate the provision of voluntary long-term disability insurance via the payroll deduction process. It is understood that long term disability insurance is wholly voluntary between the employee and the insuring company and that provision of such insurance is subject to the terms and conditions set by the insurance company and may be cancelled by the insurer if its minimum enrollment standards are not met. In the event of cancellation the County will no longer be obligated to facilitate long-term disability insurance.

13.6 All Insurance

The County continues to have the right and the obligation to administer the various insurance programs. These rights and obligations include but are not limited to the right to select the carriers and insurance claims administrators after prior meeting and consultation with the Union. Changes in insurance carriers or administrators shall not result in any appreciable reduction in benefits. In the event a change in insurance carriers is made, an open enrollment period will be authorized.

13.7 Actuarial – Limited reopener in March 2013

The County will coordinate with the Human Resources Department-Central Benefits to request an actuarial study be completed by CalPERS no later than January 2013, to be paid for by NMC for the purposes of evaluating the feasibility of providing CalPERS retirement for Resident Physicians.

SECTION 14- HOURS OF WORK

- A. The County recognizes that long duty hours extending over an unreasonably long period of time or onerous, on-call schedules are not consistent with the primary objective of education or the efficient delivery of optimal patient care. The County thereby commits itself, through the Director of Family Practice Residency Program, to fair scheduling of duty hours for Residents, including provisions of adequate off duty hours. Regular duty hours will be approximately forty-four (44) hours per week.

Call duty assignments shall not exceed fifty-two (52) days per year or an average of once every seven (7) days except in an emergency or as required by reduction in available staffing or modification in the scope of the Residency Program.

The County will provide the Residents with at least one (1) day (a 24 hour period), out of seven (7), averaged monthly, away from the Residency Program as provided for in the July 1997, Program Requirements For Residency Education in Family Practice (ACGME).

The County will make reasonable efforts to provide adequate staffing to meet these duty hour goals.

- B. Subject to staffing considerations required to meet critical patient service needs, as determined by the Residency Director:
1. The County will recognize and abide by the following ACGME proposed amended ACGME "Minimum Requirements for Resident Duty Hours" provision until implemented (July 1, 2003):
 2. Consecutive hours of work shall be limited as recommended by ACGME guidelines upon implementation of such guidelines (July 1, 2003).
 3. The County shall provide the flexibility for Residents to propose cooperative work schedules that result in four (4) free weekend days free of patient care responsibilities over a four-week period.
- C. In the event of the program's loss of a Resident Physician for 60 or more days, Resident Physicians shall be eligible to receive compensation (cash or compensatory time-off) on an hour-for-hour basis for covering "on call" and "night float" shifts left unassigned as a result of the vacancy. This benefit shall exist only to accommodate vacancies as described herein and shall terminate upon the filling of any such vacancy. The terms of this benefit shall not set a precedent to change the Resident Physicians' overtime eligibility with the County or FLSA eligibility status in any way whatsoever.

SECTION 15- CONSULTATION OF PROGRAM MODIFICATION

The County agrees that management representatives will consult with the Union and designated bargaining unit members on any reduction-in-force or change in the scope of the Residency Program. Such consultation will occur at least six months prior to making final decisions.

The County agrees to arrange a meeting between any successor employer and the Union for the purpose of discussing a smooth transition of operations, employee wages, hours, working conditions, and Union recognition.

In the event of program closure, Monterey County commits to working cooperatively with the Union Residents and the American Academy of Family Practice towards their successful placement in other comparable Family Practice programs.

This article shall not be subject to the grievance procedure.

SECTION 16- PAID TIME OFF

16.1 Paid Time Off Defined

Paid Time Off (PTO) is defined as a combination of all paid leave categories including Vacation, Holidays, Bereavement, Family and Personal Sick but not including Educational Leave.

PTO is established to allow the employee greater flexibility and control in the use of his/her leave package.

16.2 Paid Time Off Accrual Rate

Each permanent full-time employee shall earn 29 days per year of PTO, accrued on a biweekly basis. Permanent part-time employees shall accrue PTO benefits per hours paid in the ratio those hours bear to full time employment of 80 hours.

16.3 Paid Time Off Accrual Balance Maximum

The maximum PTO balance that is allowed is 500 hours.

16.4 Paid Time Off Administration of Accrual Maximum

When an employee is within two (2) pay periods of exceeding their accrual maximum, management shall, at its option, schedule the employee for time off or pay cash at the rate of one dollar (\$1.00) on the dollar in lieu of granting the time off.

16.5 Paid Time Off Buy Back

Once each calendar year, employees with over one (1) year of service may sell back to the County up to forty (40) hours of their paid time off leave in any calendar year if the following condition is met:

The employee must have at least forty (40) hours of paid time off leave remaining after the "cash out" of some of their paid time off leave.

16.6 Paid Time Off: Conversion of Vacation and Holiday Balance

Employees with existing vacation and holiday compensation, balances shall have such balances converted to PTO on an hour-to-hour basis.

16.7 Paid Time Off Usage

A. Pre-schedule Usage

Paid time off may be used upon prior request to and approval of management. Except where unforeseen circumstances prevent it, request to use paid time off must be received in accordance with the Residency Vacation Policy.

B. Usage rules for employees with sick leave balances

Employees with sick leave balances may use accrued sick leave to cover absences due to personal illness or any other reason for which sick leave was formerly used.

C. Borrowing Paid Time Off from the County of Monterey

During their first six (6) months of employment with the County, and employee may borrow up to forty (40) hours of paid time off. Usage of borrowed paid time off shall be subject to the requirements of Section 16.7(A)- Pre-scheduled Usage, above.

Repayment of borrowed paid time off shall be at the rate of four (4) hours per pay period, and shall commence in the first pay period after six (6) months of employment with the County. If the employee leaves County employment prior to repaying the County for borrowed paid time off, the remaining dollar amount owed to the county shall be deducted from the employee's last paycheck.

16.8 Usage of Paid Time Off on Holidays

- A. Holiday falls on a regularly scheduled day to work and employee does not work-number of hours in employee's regular shift deducted from PTO.
- B. Holiday falls on a regularly scheduled day to work and employee works-no time is deducted from bank. Employee is paid time and one-half (1 ½) for all hours worked. At employee's option, with concurrent written notice to the payroll section, an employee's option, with concurrent written notice to the payroll section, and employee may deduct the number of hours in his/her regular shift from PTO and thus be paid at straight time for deducted hours in addition to holiday worked pay.
- C. Holiday falls on scheduled day off and employee does not work-nothing is deducted since holidays are in PTO accrual rate.
- D. Holiday fall on scheduled day off and employee does not work- deduction from PTO bank and employee paid time and one-half for hours worked.

16.9 Pay Off of Paid Time Off Upon Separation

Upon termination of employment an employee shall be paid for any unused Paid Time Off at the employee's basic rate of pay.

16.10 Family Sick Paid Time Off

Permanent employees may be granted use of accumulated Paid Time Off leave by their appointing authority because of illness of a father, mother, brother, sister, wife, husband, domestic partner, grandparents, father-in-law, mother-in-law, or child provided in the judgment of the appointing authority, a medical conditions exists which warrants the employee's personal attendance. The appointing authority may require a physician's certificate or other substantiating evidence that such illness exists. Such absence by the employee shall be limited to ten (10) working days in any fiscal year of paid leave when used for such purpose.

16.11 Paid Time Off Bereavement Leave

Permanent employees shall be granted use of accumulated Paid Time Off leave by their appointing authority because of the death of a father, mother, brother, sister, grandparent, grandchild, wife, husband, domestic partner or child. Such absence by the employee shall be limited to five (5) working days per occurrence of paid leave. As a condition of granting leave for bereavement purposes, the appointing authority may request verification of the loss. At the discretion of the appointing authority, such leave may be granted because of the death of a mother-in-law, father-in-law, daughter-in-law or son-in-law.

16.12 Paid Time Off Sick Leave Verification

County may require medical certification or other substantiating evidence of illness for any period of time for which sick leave is sought. Medical certification for an absence of a single day will only be required if a pattern of abuse or excessive use of sick leave exists which requires said certification.

16.13 Paid Time Off Maternity Leave

Normal pregnancy and/or complications arising from pregnancy shall be considered an illness and shall be included within the provisions of this section. An employee shall be eligible for leave of absence without pay for maternity leave of up to six (6) months regardless of whether or not said employee has used all accrued paid time off leave. Said leaves of absence shall be approved in accordance with the provisions for approval of other types of leave of absence without pay.

16.14 Military Leave

Employees covered by this Agreement shall be eligible to receive the benefits provided by the County's Military Leave Policy.

SECTION 17- HOLIDAYS

The following listed day shall be observed as legal holidays. A holiday shall be equal to eight (8) hours for a full-time employee and pro-rated for part-time employees:

- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day
- New Year's Day
- Washington's Birthday
- Memorial Day

- Martin Luther King Day

Christmas Eve shall be granted as a full County holiday when December 24th actually falls on a Monday, Tuesday, Wednesday or Thursday.

If any of the above listed holidays fall on a Saturday, the preceding Friday shall be the holiday in lieu of the day observed. If one of the above holidays falls on a Sunday, the following Monday shall be the holiday in lieu of the day observed.

SECTION 18- EDUCATIONAL/PROFESSIONAL BENEFITS

- A. In addition to PTO leave, the Director of Family Practice Residency Program shall authorize three (3) days of educational leave with pay each fiscal year as an adjunct to the elective portion of the first (1st) year Resident's training, and five (5) days of educational leave with pay in each fiscal year as an adjunct to the elective portion of the second (2nd) and third (3rd) year Residents' training. For the first (1st) year Residents, on (1) day of the three (3) days of educational leave shall be authorized with pay for the purpose of taking part in the National Board of Medical Examiners' Medical Examination. A Resident Physician will be able to carry over a maximum of three (3) non-accruable days into the next residency year.
- B. Resident Physicians shall receive \$1650.00 per year for educational/professional expenses that are within the scope of the Family Practice Program.

Two payments will be paid to the Resident on the Following days: the first pay date containing a full pay period ending in January and the last pay period in June of each year.

Each Resident Physician shall be allowed to roll over any money not used for educational/professional expenses into the following year. However, any money not used by the end of the third year by a Resident Physician shall be forfeited.

- C. Employees covered by this Agreement shall also be eligible for the benefits provided by the Monterey County Educational Assistance Program.

SECTION 19- COMMITTEE VOTING RIGHTS

The Chief Resident may participate as a voting member on the Faculty Selection Committee and all Resident members on the Joint Hospital Residency Committees shall have voting rights.

SECTION 20- RESIDENTS' DISCIPLINE PROVISIONS

20.1 Residents' Obligations

Each and all of the terms and provisions of this Memorandum of Understanding, of the Residents' Policy Manual Handbook, and of the Hospital's Bay-Laws, Rules and

Regulations including all the duties indicated in the Resident I/II/III job description outlined by Allied Health Rules and Regulations shall be performed by each Resident as a condition of the continuance of his/her rights both hereunder. Additionally, each Resident shall comply with all laws, regulations and executive orders to which the County and the medical community at large are subject. The breach by a Resident of any of the foregoing shall constitute grounds for disciplinary action.

20.2 Disciplinary Actions

The appointing authority or his/her designee may take disciplinary action against any employee in the service of Monterey County provided that the rules and regulations prescribed herein are followed and that any permanent or seasonal employee who is not on any form of probationary status has the right to appeal pursuant to this section, except as herein provided. As used in this section "disciplinary action" shall mean dismissal, involuntary leave, disciplinary demotion, reduction in salary, disciplinary probation, or written reprimand.

20.3 Notice of Proposed Disciplinary Action

In order to institute disciplinary action the appointing authority or his/her designee shall serve notice of the proposed disciplinary action in accordance with the following procedures.

Except as otherwise provided herein or when emergency or other special circumstance require immediate action, a notice of proposed disciplinary action (other than for written reprimands) shall be delivered to the employee, either personally or by the United States Postal Services, to the current address listed on the employee's most recent personnel action form, no less than five (5) calendar days prior to the effective date of any punitive action against the employee.

The notice of proposed disciplinary action shall include the following:

- A. The nature of the disciplinary action;
- B. The effective date of the action;
- C. The causes for the action in ordinary, concise language with the dates and places thereof, when known;
- D. A statement that identified the material upon which the action is based and states that it is available for inspection; and
- E. A statement advising the employee of his/her right to respond either verbally or in writing to the appointing authority or his/her designee imposing the disciplinary action prior to the effective date, the right to be represented in that response, and that members of the bargaining unit are represented by SEIU-Local 817, and the address and telephone number of the union office.

20.4 Notice of Implementation of Discipline

In the case of an involuntary leave without pay of three (3) working days or less or an involuntary leave with pay of twenty (20) working days or less, the involuntary leave may be imposed by a single notice containing items A, B, C and D of Section 20.3 above. This notice shall be delivered to the employee on or as soon after the effective date of the involuntary leave as possible.

Except as provided above, in order to implement the proposed disciplinary action or a lesser disciplinary action based on the same cause(s), a notice of disciplinary action shall be delivered to the employee, either personally or by the United States Postal Service to the current address listed on the employee's most recent personnel action form, on or before the effective date of the disciplinary action. The notice of disciplinary action shall contain the information in items A, B, C and D of Section 20.3 above and, in addition, shall include a statement as to the right of appeal and representation by a party of his/her own choice and shall include a referral to the section of this Agreement concerning appeals from disciplinary action and shall include a statement that members of the bargaining unit are represented by SEIU-Local 817 with the address and the telephone number of the union office.

20.5 Written Reprimand

An appointing authority of his/her designee may reprimand an employee by furnishing the employee with a statement, in writing, of the specific reason for such reprimand. A copy of notice of the reprimand shall be given to the CAO or designee for inclusion in the employee's personnel file, and shall not be subject to appeal, but the employee and/or his/her representative shall have the right to discuss the reprimand with the appointing authority or his/her designee. The appointing authority of his/her designee may correct the reprimand, or notice of reprimand, at his/her discretion. The employee may submit a written response that shall be placed in his/her personnel file.

20.6 Disciplinary probation

An employee may be placed on disciplinary probation for a specified period of time not to exceed six (6) months for each such instance with the understanding that should the causes for such action not be satisfactorily corrected or remedied during the period, subsequent disciplinary action may be taken. The six (6) month restriction shall apply only to managerial imposition of discipline and is not intended to restrict the ability of a third (3rd) party neutral to invoke a greater period of disciplinary probation.

An employee on disciplinary probation shall serve at the pleasure of his/her appointing authority during such period of probation. In the case of an employee serving disciplinary probation, the forfeiture of appeal right shall extend only to acts or omissions related to the conditions of such disciplinary probation.

20.7 Involuntary Leave Without Pay

Any involuntary leave without pay invoked as a disciplinary action under this section against any employee in the County service, whether for one or more periods, shall not exceed sixty (60) calendar days in any one (1) calendar year; provided, however that where an employee is placed on involuntary leave without pay because of criminal information or indictment filed against such employee, the period of involuntary leave may exceed sixty (60) calendar days and continue until, but not after, the expiration of thirty (30) calendar days after the dropping of charges, or the judgment or conviction or acquittal of the offense charged in the complaint, or indictment has become final. An employee placed on such involuntary leave shall forfeit all right, privileges, and salary while on involuntary leave.

The sixty (60) day restriction shall apply only to managerial imposition of discipline and is not intended to restrict the ability of a third part neutral to invoke a greater period of involuntary leave.

20.8 Involuntary Leave Pending Investigation for Disciplinary Action

An appointing authority or his/her designee may place an employee under his/her control on involuntary leave from his/her position at any time for reasons of investigation for disciplinary action. Such involuntary leave may be either with or without pay subject to the limits set forth in Section 20.7 of this article.

Written notice of such involuntary leave shall be given to the employee as soon as possible but not later than seventy-two (72) hours after such action is taken. Such involuntary leave is not a disciplinary action and shall not be subject to appeal unless it, or any portion of it, subsequently becomes a disciplinary action. In the event an employee is placed on involuntary leave without pay under this section and the appointing authority takes no disciplinary action, he/she shall reinstate the employee to his/her position and restore all rights and privileges and back pay for the time lost during the involuntary leave.

20.9 Reduction in Salary

An appointing authority may reduce the salary of an employee, for disciplinary reasons, provided that such reduction shall be to a step within the salary range of the classification of the position held by the employee. An employee so reduced in salary shall retain his/her anniversary date but shall not be eligible for advancement to a higher step in the salary range of his/her job classification for a period of six (6) months from the date such reduction in salary became effective.

20.10 Disciplinary Demotion

An appointing authority may demote an employee, for disciplinary reasons, to any position with a lower salary range, provided the employee meets minimum qualifications for the lower-level position. Such demoted employee shall not be eligible for promotion for a period of six (6) calendar months.

20.11 Dismissal

The continued tenure of each employee who has permanent status shall be subject to his/her satisfactory conduct and the rendering of efficient service. Should the cause of disciplinary action so warrant, an employee may be dismissed.

20.12 Absence Without Leave Separation

An employee absent from duty for a period which exceeds three (3) working days without authorized leave shall be considered to have abandoned his/her position and to have automatically resigned.

Such resignation shall be rescinded by the appointing authority that if it was impossible to contact the department of employment, provided the employee contact the department within five (5) working days of notice of separation under this section through United States Mail.

20.13 Statute of Limitation

Any disciplinary action for cause against a county employee shall not be valid unless the notice of disciplinary action is served within one (1) year of the date of the discovery of the event, which gave rise to the cause of discipline. Matters of serious nature (e.g. fraud, embezzlement, falsification of records) shall require written notice to the employee of disciplinary action within three (3) years after the event which gave rise to the disciplinary action. Disciplinary action based on fraud, embezzlement, or the falsification of records shall be valid, if the notice of such action is served within three (3) years after the discovery of such fraud, embezzlement, or falsification.

Nothing herein shall preclude the County from disciplining an employee for cause which consists of a course of conduct or history of performance that began more than three (3) years prior to the notice of disciplinary action. Such disciplinary and/or performance record of beyond three (3) years shall be used only to determine the disciplinary penalty to be imposed.

20.14 Appeals form Disciplinary Action

Only permanent employees, or seasonal employees with more than one (1) year of service, and who are not on probation, shall have the right of appeal from disciplinary actions other than written reprimands. The written notice of appeal must:

- A. State the basis of the appeal and contain a specific admission or denial of each of the material allegations contained in the notice of disciplinary action, and;
- B. Be filed with the County Administrative Officer within ten (10) working days of the effective date of the disciplinary action, and;

C. Indicate which of the available appeal procedures the appeal is being filed under (for instance the LAPS procedures or the procedures set forth in this Agreement).

Appeals to arbitration shall only be filed by the Union.

Failure to appeal with the time limit set forth in this section shall constitute an irrevocable waiver of the right to process the appeal to arbitration. Within ninety (90) calendar days of the receipt of the appeal to the county Administrative Officer the County and the Union shall agree upon an arbitration hearing date. The parties shall select a mutually acceptable arbitrator. The fees and expenses of the arbitrator shall be shared equally by the parties, it being understood and agreed that all other expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, will be the responsibility of the individual party involved.

In lieu of the appeals procedure set forth above, the Resident may, prior to the proposed effective date of the disciplinary action, make a written request that the matter be submitted to the Family Practice Executive committee of the Hospital for its evaluation and recommendation. The written request shall be delivered to the Hospital Administrator. Upon receipt thereof, the Hospital Administrator shall convene the Family Practice Executive Committee, which shall hold an informal hearing in the matter. The Family Practice Executive Committee will consider input from the Family Practice Advisory Council in formulating its recommendation. The Resident shall have the right to be present and to be represented therein; to cross-examine any witness and to present evidence.

Upon conclusion of its hearing, the Committee shall make a written recommendation to the Hospital Administrator as to the discipline to be imposed, if any, and the basis for its recommendation. The Hospital Administrator, after consideration of the Committee's recommendation, shall at his/her sole discretion make a final determination in the matter. The Resident shall continue to receive his/her regular salary and benefits pending the recommendation of the Committee and the action of the Hospital Administrator, irrespective of whether the Resident has been suspended from the Residency Program.

Issue concerning academic performance shall be governed by the policies established by the Family Practice Residency Director with consultation with the Family Practice Executive Committee, and may not be the subject of either disciplinary appeal or grievance under the provisions of this Agreement.

SECTION 21- GRIEVANCE PROCEDURE

21.1 Grievance Defined

A grievance is defined as a dispute over the interpretation or application of the Agreement by an employee adversely affected thereby, but shall not include the following:

- A. Disciplinary actions as defined herein which shall be subject to appeal through the procedure contained in this agreement for the appeal of disciplinary actions.

- B. Complaints regarding Affirmative Action, occupational health and safety or worker's compensation or the applicable procedures for such complaints.
- C. The exercise of any County rights as specified in the Agreement, so long as the exercise of such right does not conflict with other provisions of the Agreement.
- D. Any impasse or dispute in the meeting and conferring process, or any matter within the scope of representation.
- E. Any matter for which a different appeals procedure is provided either by statutes, ordinances, resolutions or agreements. The Union shall be entitled to file a grievance on behalf of an employee adversely affected by a grievable matter. The Union may file a grievance on its own behalf only on those matters which pertain to the right of the Union as an organization as specified in Article 7 of the Agreement.

21.2 Limited Grievance Procedure Application

An employee shall be entitled to file a grievance which alleges that the County has failed to provide a specific condition of employment which is established by the Salary and Benefits Resolution provided that the enjoyment of such right is not made subject to the discretion of the department head or the County, and provided further that the condition of employment which is the subject matter of the grievance is a matter within the scope of representation as defined in California Government Code Section 3504. Such limited grievances may not be appealed to arbitration.

21.3 No Discrimination

There shall be no restraint, interference, coercion, discrimination or reprisal against any employee for exercising any rights under the grievance procedure.

21.4 Time Limits

The time limits set forth herein are essential to the grievance procedure and shall be strictly observed. The time limits may be extended by agreement of the parties, however, any such extension must be confirmed in writing. The grievant has the right to promptly proceed to the next step within the prescribed time limits if the appropriate management representative fails to respond within the time limits specified.

Failure of the aggrieved employee to file an appeal within the prescribed time limits for any step of the procedure shall constitute abandonment of the grievance.

21.5 Grievance Procedure Steps

Step 1 Discussion with the Director Family Practice Residency Program

- A. The grievant shall first discuss the grievance informally with the Director of Family Practice Residency Program. The discussion shall be held within fifteen (15) working days of the action causing the grievance or of the date the action reasonably could have been expected to be known to the grievant. In no event shall any grievance be accepted for consideration more than six (6) months from the date of the action causing the grievance, regardless of the date the action became known to the grievant.
- B. Every reasonable effort shall be made to resolve the grievance at this level. The Director of Family Practice Residency Program shall verbally respond to the grievant within five (5) working days of the informal discussion with the grievant.

Step 2 Formal Written Grievance

- A. In the event the employee believes the grievance has not been satisfactorily resolved, the employee shall submit the grievance in writing on the agreed to prescribed form to the department head within ten (10) working days after receipt of the Director of Family Practice Residency Program's verbal response. The grievant shall file one (1) copy with the Human Resources Division. Such written grievance shall:
 - 1. Fully describe the grievance and how the employee(s) was/were adversely affected;
 - 2. Set forth the section(s) of this Agreement allegedly violated;
 - 3. Indicate the date(s) of the incident(s) grieved.
 - 4. Specify the remedy of solution to the grievance sought by the employee(s).
 - 5. Identify the grievant and be signed by the grievant.
 - 6. Identify the person, if any, chosen by the grievant to be his/her representative.
- B. No modifications in the basic violation being alleged pursuant to this grievance procedure shall be made subsequent to filing of a grievance unless mutually agreed to by both the County and the grievant or the grievant's representative. However, corrections in citations or other clarifying amendments can be made at any time by the grievant or the grievant's representative.

The department head or his/her designee shall hold a meeting with the grievant within seven (7) working days of the receipt of the appeal. The department head or his/her designee shall deliver his/her written decision to the grievant ad/or his/her representative within (3) working days of the date of the grievance meeting. The department head's or his/her designee's decision shall include the reasons on which the decision is based and the remedy or corrections which has been offered, if any, to the grievant.

Step 3 Mediation

If the grievance is not settled at Step 2 of the procedure, the Union on behalf of the employee shall, within ten (10) working days from receipt of the department head's or his/her designee's written decision, make a written request to the County CAO or designee to seek the assistance of a mediator from the state conciliation service in an attempt to resolve the grievance. The mediator shall have no authority to resolve the

grievance except by agreement of the Union and the County. In the event the grievance is not resolved, neither evidence nor concessions agreed to or offered during mediation shall be admissible at the subsequent grievance hearing.

Step 4 Arbitration

- A. If a grievance is not settled at Step 3 of the procedure, the Union and only the Union may appeal the grievance in writing to the County Administrative Officer within ten (10) working days from the decision by either party to end the medication process.
- B. The parties shall select a mutually acceptable arbitrator. The fees and expenses of the arbitrator; the transcript for the arbitrator; and the court reporter shall be shared equally by the parties, it being understood and agreed that all other expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, will be the responsibility of the individual party involved.
- C. The decision of an arbitrator shall be final and binding upon the parties but shall not add to, subtract from, nor otherwise modify the terms and conditions of this Agreement.
- D. The parties expressly agree that the term of this section shall expire as of the expiration date of the Agreement and that the status quo shall revert to a situation where there is no arbitration of grievances that occur after the expiration date of the Agreement until or unless a successor Agreement is approved by the board of Supervisors.

21.6 Representation

- A. The employee has the right to the assistance of one (1) employee representative/shop steward in addition to a staff representative of the Union in the preparation and/or presentation of her/his grievance in Steps 2 through 4 of this procedure provided, however, that the supervisory employees shall not represent non-supervisory employees.
- B. An employee is also entitled to represent himself/herself individually at any step of the grievance procedure, except in arbitration. Only the Union may file for arbitration of a grievance.
- C. A grievant may not change his/her designation of representative organization, during the processing of a grievance except by mutual agreement of the parties.
- D. If the employee is represented in a formal grievance meeting, the department may also designate a management representative to be present in such a meeting.

21.7 Grievance Withdrawal

The grievant and his/her representative may withdraw the grievance at any step of the grievance procedure by giving written notice to the County representative who last took action on the grievance, with a copy to the Office of the CAO.

21.8 Grievance Resolution

If a grievance is resolved at Step 2 or 3 in the procedure as provided herein, the grievant concerned shall indicate acceptance of the resolution by affixing her/his signature in the appropriate space indicated. If the employee has been represented by the Union at the step in the procedure at which a resolution is reached, the Union representative shall also sign the appropriate document acknowledging that the employee has accepted the resolution. Decisions on grievances where an employee represents himself/herself shall not be considered precedent setting or binding with regard to any future grievances filed with respect to the same or similar matters.

21.9 Reconsideration

By mutual agreement, the parties may revert the grievance to a prior level for reconsideration. If the grievance is not then settled at the prior level, the grievant shall continue to have the rights set forth in this procedure.

21.10 Consolidation

The County may consolidate grievances where, in its discretion, the grievances present substantially similar issues.

Then Union may file group grievance at the second step of the grievance procedure by listing each person who claims to be adversely affected and all other data required in this article.

21.11 Processing Grievances

The grievant shall be granted reasonable time off with pay from regularly scheduled duty hours to process a grievance, provided that the time off will be devoted to the prompt and efficient investigation and handling of grievances, subject to the following:

- A. Neither a grievant nor a grievant's representative who is a County employee shall suffer any loss of pay for attending any regularly scheduled grievance hearing required by the procedure herein set forth.
- B. A grievant or grievant's representative shall notify their supervisor as soon as possible of scheduled grievance hearings and of any changes in the time or date or scheduled hearings in which they must participate.
- C. In no event shall a grievant be represented by more than one (1) County employee at the grievance hearings.

SECTION 22- LAYOFF PROCEDURES

22.1 Policy

The County may lay off an employee because of lack of work, lack of funds, material change in duties or organization, or in the interest of economy or causes outside the County's direct control.

The County shall inform the Union regarding the effects of any planned reduction in force or layoffs affecting one (1) or more full-time equivalent positions within the bargaining unit. Departments and employees covered by other layoff procedures; i.e. Local Agency Personnel Standards, State Merit System, or Anti-recession Federal Regulations, shall be governed by those procedures.

22.2 Procedure

Layoffs will be determined within County departments, not the County as a whole. In the event of a reduction in force in department, the department head shall designate the classes, positions, and number of employees to be eliminated. The department at this time shall provide the Union with a current seniority list for those employees and classes affected. Layoffs shall be made among all representation unit employees in the same class within a County department in the following order:

- Temporary employees
- Probationary new employees (excluding promotional probationary employees.)
- Seasonal employees *
- Permanent employees.
- Excluding the Agricultural Department*

No permanent employee within a department shall be laid off in any class if there are temporary employees in an active status in the same class within that department.

Layoffs shall be ranking sequence of employees except as otherwise provided herein. For purposes of layoff, rank shall be defined as the length of continuous service in a class series as determined by County personnel records while occupying a permanent position within the County. Continuous service for purposes of ranking for layoff shall be defined to include work related injury leave of up to one (1) year's duration

A permanent employee of Natividad Medical Center subject to layoff shall be entitled to assume temporary employee status in lieu of layoff provided the employee is qualified to assume the duties and responsibilities of an existing temporary position and class. No new temporary positions shall be created for the sole purpose of eliminating permanent employees. Layoffs of employees within each category of employment status within a department and within a class series shall be based on ranking sequence unless it can be demonstrated that: 1) an employee possesses special skills, training, or abilities, or 2) the employee's past job performance or disciplinary record justifies an alternative ranking, or 3) the employee may be, by virtue of ranking sequence, subject to disparate treatment.

A permanent full-time employee may elect to be ranked within employees in any class in the same department with the same or lower salary in which the employee has served in permanent status in the County service. An employee must notify his/her appointing authority within two (2) days after receipt of written notice of layoff or election of this option except if the second day following notice of layoff is not a regularly scheduled work day, the employee may give notice on the next work day.

In lieu of layoff, the department head may offer a permanent employee a demotion to any class for which the employee qualified. Employees demoted in lieu of layoff pursuant to this paragraph shall not be eligible for the "Y" rating procedure. An employee who chooses a demotion in lieu of layoff shall have the right of restoration to his or her former class when an opening occurs and his or her ranking sequence warrants restoration subject to the provisions of Section 22.4 below.

22.3 Notice

Written notice of layoff shall be served on the affected employees in person or mailed by the United State Postal service to the employee's latest address on file with the County. The layoff notice shall be served or mailed at least twenty-one (21) calendar days prior to the expected effective date of any separation effective on or after October 1, 1983, unless delay results from consideration of demotion under the provisions of Section 22.2. the notice shall include:

- The reason for the layoff.
- The effective date of the action.
- A reference to the provisions governing reemployment.
- Notice that employment counseling is available.
- A copy of the notice shall be given to the Union.

22.4 Reemployment of Employees Laid Off

The names of persons laid off under these procedures shall be maintained on a departmental recall list for the class series from which the employee was laid off for a period of one (1) year from the date of layoff. When filling any position, the department head shall recall laid off employees from the departmental recall list for the class of the position in inverse order of layoff. No new employee shall be hired nor shall any employee be promoted in any class until all employees on layoff status in that class have the opportunity to return to work.

As an exception to the provisions of this paragraph, however, when the best interest of the County requires an employee with demonstrated special qualifications, skills or training, or for affirmative action considerations, the department head may make an exception to the above order of recall in order to appoint an employee out of ranking sequence.

Every employee given notice of layoff may request employment counseling and evaluation in order to determine those job classes within the County for which the employee meets employment eligibility requirements and desires to be considered for employment from a

Preferred Eligible list. Such counseling and evaluation shall be available by appointment in order of request. Following the counseling and evaluation, laid off employee's name shall be placed on a Preferred Eligible List for each class designated as a result of the counseling and evaluation. When the Personnel Division receives a request to refer applicants to a department for a vacant position in a class for which there exists a preferred Eligible List, the laid off employee on the list shall be considered for employment prior to any job applicant. A competitive job related selection process may be used to determine the order in which laid off employees on a Preferred Eligible List for a class will be referred for an interview.

A laid off employee may be removed from the department recall list or a Preferred Eligible List for any of the following reasons:

- The expiration of one (1) year from the date of layoff.
- Reemployment within the County.
- Failure to accept employment or report to work.
- Failure to respond within seven calendar (7) days to a communication regarding availability of employment.
- Failure to appear for a job interview after notification by telephone or by mail addressed to the employee's last address on file within the County.
- Request in writing by the laid off employee to be removed from the list.

22.5 Restoration of Benefits for Recalled Employees

Any employee who has been laid off and is rehired from a departmental recall list under the terms of this article within one (1) year from the date of layoff shall be entitled to:

- Restoration of permanent status for employees who are rehired from a departmental recall list and class from which they were laid off, and who have completed their probationary period, credit for that portion which has been completed shall be given if rehired from a departmental recall list.
- Restoration of all sick leave credit to the employee's account on the date s/he was laid off.
- Credit for all prior service for the purpose of determining vacation accrual rates. Placement in the same step of the same step of the salary range the employee held at the time of layoff.
- Reinstatement of credit for service time (ranking) as of the date of layoff.

22.6 Insurance Coverage

Each permanent employee who is enrolled in the County Health Plan at the time of layoff may, prior to the effective date of the layoff, elect to enroll in a health insurance conversion plan offered by our then current health plan administrative carrier. In the event the laid off employee so elects, the County will pay an amount equal to two (2) times the employee only premium at the time of layoff toward the cost of the health insurance conversion plan.

22.7 Appeal Procedure

An employee directly affected by the operation of this policy may, within five (5) working days after a notice of layoff is received, request a meeting with a department head or the department head's designated representative to review the application of this policy as it affects the employee's status. The employee may be accompanied by a representative of the Union.

The Union, and only the Union, after making an attempt to resolve the matter informally, may within seven (7) working days of the date of an alleged violation of this policy file a grievance for final consideration and determination at the department head level in accordance with the provisions of the grievance procedure set forth in this Agreement.

SECTION 23- OUTSIDE EMPLOYMENT

Outside employment for pay in off-duty hours shall be allowed and reported to the Director of Family Practice Program.

SECTION 24- EMPLOYEE REFERRAL BONUS PROGRAM

Employees covered by this Agreement shall be eligible for the benefits provided by the County's "Employee Referral Bonus Program."

SECTION 25- EMPLOYEE ELECTION OFFICIAL PROGRAM

Employees shall be eligible for the benefits provided by the County's "Employee Election Official Program."

SECTION 26- PERSONAL PROPERTY REIMBURSEMENT

Whenever an employee engaged in assigned official duties on behalf of the County sustains a loss of personal property, through no fault of the employee, that employee shall be eligible for reimbursement for such personal property. A request for reimbursement must be submitted by claim to the appointing authority no later than thirty (30) calendar days from the date of loss. Management shall review the claim and when circumstances warrant, reimbursement shall be made.

- A. Claims based on cash losses or losses due to loss or stolen credit cards shall not be considered.
- B. Claims based upon damage to automobiles are subject to the following provisions. All for (4) conditions must be met before consideration will be given
 1. An employee, who drives his/her car incident to employment, shall have named the County as an additional injured on his/her automobile insurance policy as of the date the employee sustained the loss of his/her automobile.
 2. Evidence of the required insurance coverage must be presented.

3. Invoice for work completed must be submitted. Reimbursement is limited to two hundred dollars (\$200).
 4. The damage must have occurred while the employee was actually using the automobile on authorized County business, away from the employee's work place.
- C. No reimbursement shall be granted for losses covered by some other source, insurance policy or agency.
 - D. A maximum limit of two hundred dollars (\$200) per incident shall apply to all claims for reimbursement.
 - E. No claims for reimbursement for items having a present value of less than ten dollars (\$10) shall be considered.

SECTION 27- PERSONNEL RECORDS

Confidentiality

The County and the Union agree that personnel records are not subject to public inspection. All personnel records are and remain the property of the County. Employees shall have the right to inspect and review any official record relating to his/her performance as an employee which is kept or maintained by the County. When any comment adverse to an employee's interest is entered in his/her official personnel records, the employee shall have opportunity to read the adverse entry.

Notwithstanding any other provision of this item, County and the Union agree that an employee is not entitled to inspect or review such documents as reference letters, background investigations, records pertaining to investigation of a possible criminal offense, or material designated confidential by law. At his/her request, an employee shall be provided one (1) copy of any document placed in the employee's file except for employment applications and those documents listed above.

An employee, or a staff representative of the Union with the prior written consent of the employee, may upon request inspect that employee's personnel file during regular business hours by appointment.

The appointing authority shall keep the official personnel records of all employees within his/her department.

It is mutually recognized that all performance related materials contained within an employee's personnel file may provide material substance and support to proposed and imposed disciplinary actions. Nothing in this Agreement shall preclude the use of any material in an employee's personnel file from being used in any proceeding involving the decision of the appointing authority to take disciplinary action against the employee.

SECTION 28- SAFETY

The County recognizes its obligation to provide a safe place of employment for its employees. To assist in accomplishing this goal, it is agreed that the County reserves the right to adopt reasonable departmental rules and regulations, which become effective when posted.

The County agreed to abide by all health and safety regulations as pertain to hospital environment.

The Union agrees that it is the duty of all employees to comply with all reasonable rules and regulations and to be alert to all unsafe places, equipment conditions and to report any such unsafe practices or conditions to their immediate supervisor. The County and the Union shall establish a county-wide health and safety committee which will meet on a bi-monthly basis to review county safety records, policies and programs, and make recommendations for the resolution of health and safety issues brought before them by either the County or the Union. Each party shall furnish the other the agenda items they wish to discuss one (1) week prior to any scheduled meeting.

The article is not subject to grievance procedure.

SECTION 29- UNSCHEDULED ABSENCES

The Director of Family Practice Residency Program or his/her designee will determine the appropriate method for covering the duties of the absent resident as a result of an unscheduled absence. Methods of coverage will be applied as follows:

When there is an unscheduled absence during the daytime (8:00 a.m. to 4:00 p.m.) on weekdays, resident staff will absorb the absent resident's duties without additional compensation.

On weekends, holidays, and after 4:00 p.m. on weekdays, resident staff within the same year of the program will be requested by the Director of Family Practice Residency Program or his/her designee to trade their call assignment with the absent resident.

Subject to the approval of the Director of Family Practice Residency Program, the following shall apply to a resident on an approved vacation who is directed to return to Natividad Medical Center for coverage of an unscheduled absence or when a resident is directed to provide coverage for night call or weekend duty due to the unscheduled absence of a resident:

- A. A resident so assigned, may earn compensatory time off or hour for hour at straight time;
- B. Monterey County will pay for up to a maximum of eight (8) days of compensatory time off per fiscal year for the Residency Program;
- C. Such assignments shall be made, when possible, on a rotating basis;
- D. Furthermore, light rotation assignments may be authorized for the resident who has provided coverage for an unscheduled absence of more than three days. Such authorization and the light rotation assignment must be approved by the Director of Family Practice Residency Program.

SECTION 30- CONCERTED ACTIVITIES

The parties to this agreement recognize and acknowledge that the services performed by the County employees covered by this agreement are essential to the public health, safety, and general welfare of the residents of the County of Monterey. Union agrees that under no circumstances will the Union recommend, encourage, cause or permit its member to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out, slow-down, or picketing (hereinafter collectively referred to as work-stoppage), in any office or department of the County, nor to curtail any work or restrict any production, or interfere with any member of the bargaining unit, the County shall not be required to negotiate on the merits of any dispute, which may have given rise to such work-stoppage until said work-stoppage has ceased.

In the event of any work-stoppage, during the term of this agreement, whether by the Union or by any member of the bargaining unit, the Union by its officers, shall immediately declare in writing and publicize that such work-stoppage is illegal and unauthorized and further directs its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the County. In the event of any work-stoppage if the Union promptly and in good faith performs the obligations of this paragraph, and providing the Union had not otherwise authorized such work-stoppage, the Union shall not be liable for any damages caused by the violation of this provision.

The County shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work-stoppage activity herein prohibited; and the County shall also have the right to seek full legal redress, including damages, as against any such employee.

SECTION 31- EMERGENCY AUTHORITY

Nothing contained herein shall be construed to limit the authority of the County to make changes for the purpose of preparing for or meeting an emergency. For the purposes of this article, changes in law or circumstances that significantly reduce currently existing revenue levels shall be included within the definition of an emergency. Such emergency actions shall not extend beyond the period of the emergency.

Whenever practicable, the County will meet and consult with the Union prior to taking action under the authority of this section. After taking action under the authority of this section, the County, upon request, will meet and confer with the Union over the practical consequences that the emergency action taken had on those terms and conditions of employment that are within the scope of representation.

SECTION 32- SEPARABILITY

If any section, subsection, paragraph, clause or phrase of this agreement is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity

or constitutionality of the remaining portions of this agreement, it being hereby expressly declared that this document, each section, subsection, paragraph, sentence, clause and phrase thereof, would have been adopted irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 33- FULL UNDERSTANDING, MODIFICATION, WAIVER

It is intended that this agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Existing matters within the scope of representation which are not referenced in the Memorandum of Understanding and which are subject to meet and confer process shall continue without change unless modified subject to the meet and confer process. The County assures the Union that unless changes are warranted by operational necessity it does not intend, nor does it anticipate, during the term of this Memorandum of Understanding any change, modification or cancellation of wages, hours and working conditions which are subject to meet and confer and which are presently in effect or contained in the Memorandum.

Except as specifically provided in paragraph two above, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights, and agrees that the other shall not be required, although they may mutually agree otherwise, to negotiate with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations, during the term of this agreement.

Any agreement, alternation, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not 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

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

FOR SEIU LOCAL 521

FOR MONTEREY COUNTY

/s/Jay Donato

/s/Brette Neal

Date: 8/1/12