

**MEMORANDUM  
OF  
UNDERSTANDING**  
*Between*  
**County of Monterey**  
*And*  
**SERVICE EMPLOYEES  
INTERNATIONAL UNION (SEIU)  
LOCAL 521**  
**General Employees Unit J**  
**July 1, 2013 through June 30, 2016**



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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 521 (Unit J) CTW-CLC (herein called the "Union") and/or its designee.

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 this Memorandum of Understanding is from July 1, 2013 to June 30, 2016 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 all permanent and seasonal employees in classifications in General Employees Unit J.

### 3.1 Relationship Affirmation

The Union recognizes its obligation to cooperate with the County to assure maximum service of the highest quality and efficiency to the citizens of Monterey County, consonant with its obligations to the workers it represents. The County and the Union affirm the principle that harmonious labor-management relations are to be promoted and furthered. The County and the Union agree that each employee shall be treated equally, fairly, and with dignity and respect.

This Section shall not be subject to the grievance procedure.

### 3.2 Monterey County Values

- We are committed to assuring honesty and integrity in all County actions.
- We are committed to providing top quality customer service.
- We are committed to practicing continuing innovation.
- We are committed to treating our fellow employees, customers and residents with respect and courtesy at all times.

This section shall not be subject to the Grievance procedure nor shall the section, or the Monterey County Values statement be relied on or used in any disciplinary matter.

### 3.3 SEIU Local 521 Values

- We stand for economic and social justice.
- We stand for having a voice on the job and in society.
- We stand for a secure job with the opportunity to advance.
- We stand for dignity and respect.
- We stand united.

### **3.4 Dignity Clause**

The County is committed to providing a workplace where all persons employed by the County of Monterey, regardless of their classification or pay status, are treated in a manner that maintains generally accepted standards of human dignity and courtesy. Employees alleging that they have not been treated accordingly may process a complaint to the department head or designee.

## **SECTION 4 NON-DISCRIMINATION**

The provisions of this Memorandum of Understanding shall be applied equally to all employees covered hereby without discrimination because of race, color, ethnic group, national origin (including language use restrictions), ancestry, religious creed, sex (includes gender and pregnancy), disability (physical and mental, including HIV and AIDS), sexual orientation, age (40 and over), veteran's status, medical condition (cancer or genetic characteristics) 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 Equal Opportunity Program established by the County and that there shall be no discrimination within their respective organizations because of race, creed, sex, sex preference, 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/or proving that, but for such act or acts, the alleged injury or damage to the grievant would not have occurred.

Complaints based on age, race, color, religion, sex, national origin, marital status, ancestry, disability or sexual orientation shall not be subject to the grievance or arbitration provisions of this agreement. Such complaints shall be processed utilizing the discrimination complaint procedure adopted by the Board of Supervisors.

Discrimination complaints based on union membership and/or activity shall continue to be subject to the grievance procedure and arbitration.

## **SECTION 5 UNION RIGHTS**

### **5.1 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 term of this Agreement of its elected officers and directors as well as its staff employees.

The Union may select up to ten (10) 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 without loss of pay to address matters of mutual concern.

In addition, with prior mutual agreement, up to two (2) employees directly affected by the matters under consideration may participate in these joint scheduled meetings.

### **5.2 Union Official Representatives**

If a County employee has been designated to be a spokesperson, as a result of a bona fide SEIU Local 521 election, for a bargaining unit of which she or he is not a member, the County employee shall be allowed to represent the members of that bargaining unit in the meet and confer process.

### **5.3 Union Orientation**

The County shall allow union representative(s) fifteen (15) minutes of the agenda during the departmental and county-wide New Employee Orientation to provide information regarding the benefits and obligations of union membership. The union representative(s) shall not malign the County, its employees or officials.

Current County employees transferring into a classification represented by this union shall be authorized to attend either the departmental or County-wide New Employee Orientation.

The County shall provide the union with a list of all SEIU 521 represented new hires attending the county-wide scheduled New Employee Orientation.

### **5.4 Steward Program**

Union stewards shall mean permanent employees of a department within the same bargaining unit, who are members of and are designated by the Union to assist employees for the purposes of processing grievances. The General Employees Unit shall select up to fifty (50) stewards.

The Union agrees to notify the department head in writing of the names and titles of the departmental steward(s) representing employees in his/her department and shall send a copy of such notice to the Human Resources Director or his/her designee.

Changes to the listing of stewards will be provided by the Union as they occur. Only employees named on the current list will be recognized by the County as stewards of the Union.

Stewards shall be subject to the following:

- A. Stewards shall be authorized a reasonable amount of time off without loss of pay to investigate and prepare grievances and disciplinary appeals of employees in

the department to which the steward(s) are assigned subject to the restrictions in "I" below.

- B. Stewards shall have the right to serve as a representative for employees in grievance matters in accordance with the grievance and disciplinary appeals provisions of the Agreement. No more than one (1) steward may assist in the investigation or processing of a grievance.
- C. Before performing grievance and disciplinary appeal work, the steward will obtain the verbal permission of his/her supervisor and shall report back to his/her supervisor when the grievance or disciplinary work is completed.
- D. After receiving approval of his/her immediate supervisor, a steward shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate, prepare and present such grievances and appeals. The immediate supervisor will authorize the steward to leave his/her work whenever the supervisor determines that the steward's absence will not interfere with the work of the unit.
- E. Where immediate approval is not granted, the supervisor shall inform the steward of the reasons for the denial and establish an alternate time when the steward can reasonably be expected to be released from his/her work assignment.
- F. When a steward desires to contact an employee, the steward shall first contact the immediate supervisor of that employee, advise of the nature of the business, and obtain release by the supervisor to meet with the employee. When, in the best judgment of the supervisor, the investigation would interfere with the work of the unit, the supervisor will notify the steward when he/she can reasonably expect to contact the employee.
- G. Stewards shall receive no overtime for time spent performing a function of a steward.
- H. Stewards shall not conduct Union business on County time, except as specifically authorized by this Memorandum of Understanding.
- I. Stewards shall be responsible for the full and prompt performance of their workload.
- J. Stewards may represent employees against whom disciplinary action is pending subject to the following restrictions:
  - 1. The steward agrees that the issues which gave rise to the proposed disciplinary action are confidential in nature and will not be discussed

with other employees, representatives or the news media, or others who do not have a direct need to know the details of the proposed discipline. The County may refuse to recognize or to deal with a steward who violates this confidentiality.

2. Department management may require that disciplinary representation in a particular disciplinary appeal only be accorded through stewards who are also employees of the same department or by a Union staff representative.

### **5.5 Union Access**

Authorized Union staff representatives shall have reasonable access to work locations in which covered employees are employed for the purpose of transmitting information or representation purposes. Authorized Union staff representatives desiring access shall first request permission from the appropriate management representative, at which time the authorized representative shall inform the management representative of the purpose of the visit. The 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 in which event the management representative will offer an alternative time and/or location for the visit. In cases where management denies access to a critical patient care area and the issue which gives rise to the request for access is one of employee health or safety, then the department shall provide controlled or escorted access.

The Union shall give to each department head, having employees in the unit, and the Human Resources Director or his/her 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 only be granted to Union staff representatives on the current list.

Union representatives may request reasonable access to work sites to hold elections over internal union issues. If so approved by the Department Head, an election may be conducted so long as there is no interference with the department's operations. Such access shall not be interpreted as a granting of release time for participation in said election.

### **5.6 Operational Union Access Procedures for NMC**

Upon entry to NMC facilities, the Representative shall contact the Human Resources Department by stopping by the Human Resources Department to report their presence and sign-in, and following the same process upon exiting the facility. For the delivery of materials (i.e. ballots, informational flyers, etc.) that do not require more than cursory contact with members, the Representative will follow the same process.

### **5.7 Bulletin Board**

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

- Union recreational, social, and related news bulletins;
- Scheduled 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.

### **5.8 Dues Deduction**

**A.** Bargaining units' employees hired after January 1, 1988 shall, as a condition of employment, pay a Service Fee or authorize a Membership Dues Deduction or a Charity Fee, as a union member.

*1. Service Fee:* All bargaining units' employees shall, as a condition of employment, pay a service fee equal to the percentage of the regular dues that is used for legally permissible representation costs. The County will deduct service fees from wages beginning the first pay period of each month.

*2. Membership Dues Deduction:* Any bargaining unit employee may elect to authorize union membership dues deduction. The County will deduct union membership dues from wages beginning the first pay period of each month, following receipt of such authorization by the Auditor-Controller's Office.

*3. Charity Fee:* If an employee qualifies, a charity fee equal to the service fee will be deducted and paid to a tax-exempt charitable organization that has been agreed upon.

To qualify for the designated charity fee deduction, an employee must certify to the union that he/she is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations.

Such exempt unit employees will be required to submit to the Union a notarized letter certifying that person's membership in such a religion, body or sect, signed by an official of the bona fide religion, body or sect.

### **B. Promotion**

Upon promotion into a classification represented by the Union, the employee shall have his/her deductions continue.

**C.** The County shall not be responsible for deduction of dues in cases of:

1. Termination of employment
2. Removal from covered employment on a temporary or permanent basis



3. Layoff
4. Leave of absence without pay
5. Receipt of insufficient wages during the dues collection period (Example: If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by this section.)

**D.** Union membership may only be changed by unit employees in the last year before the end of the existing MOU during the period of the last five working days in December. Notification to the union must be by U.S. mail or hand delivered to the Union office at 334 Monterey Street, Salinas, California and be received within the days listed above. Notification shall utilize the payroll deduction authorization form.

**E.** The Union will forward to the Auditor/Controller's office, a copy of any payroll deduction authorization forms in a timely manner. The Auditor/Controller's office shall forward to the Union any such authorization forms received on their end so both parties can accurately assess the employee's deduction selection.

**F.** The Union dues or fees will be deducted the first pay period of each month and will be remitted to the Union, along with a list of the employee numbers and names within 5 (five) work days of pay day. This deduction report shall be submitted in an electronic format for importing and posting purposes.

**G.** A comprehensive list of all employees covered by this MOU will be submitted by the County to the Union each month with the following information: Full Name, Home Address, Home Phone, Employee Number, Bargaining Unit, Job Classification, Department, Work Location, Work Phone, Hourly Rate or Salary, and Date of Hire. This list should be sent in an electronic format that both the Union and Employer agree upon.

**H. Forfeiture of Deductions**

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

**I.** Union agrees to provide County with updated dues structure at least one month prior to the effective date of the change. Questions regarding Dues Deduction should be directed to SEIU Local 521 staff.

**J.** The Union shall, within ninety (90) days after the end of each fiscal year, make available to the County financial documentation, which shall meet the requirements of Government Code Section 3502.2.

**K.** The Union shall notify the County within 30 days of the name of any employee who has been designated as a religious objector and is exempt from payroll deduction for dues or agency fees.

#### **L. Indemnification**

The Union agrees to defend, indemnify and hold harmless the County and its officers, employees and agents against all claims, proceedings and liability arising, directly or indirectly, out of any actions taken or not taken by or on behalf of the County under this section. It is mutually understood by the parties that the County shall retain the right to select its own attorneys and to consult with same in the event the parties jointly declare or a court determines that a conflict of interest exists with respect to representation of the County by the Union's attorneys.

The Union acknowledges that it has and will continue to comply with all applicable requirements, regulations and provisions of law pertaining to deduction of dues and agency fees. It is agreed that the County assumes no obligation other than that specified herein, whether financial or otherwise, from these provisions.

#### **M. Enforcement/Severability**

In the event that the service fee provisions are declared by a court of competent jurisdiction to be illegal or unenforceable, the parties agree to reopen this article of this agreement for the purposes of implementing Modified Agency Shop provisions.

#### **N. Petition, Election and Challenge**

If a petition is filed with the County which requires an election rescinding agency shop and such petition contains signatures, collected within a forty-five (45) day period, of at least thirty percent (30%) of the employees covered by the provisions of this section in the Bargaining Unit, an election will be held. Such election may be held only once during the term of this Agreement. The election shall be conducted by State Mediation and Conciliation Service. Voting election shall be by secret ballot and a majority vote of all employees in the Bargaining Unit covered by the provisions of this section shall be required to rescind agency shop.

#### **O. Financial Documentation**

The Union must present annually, a demonstration of the legally permissible costs that may be charged as a service fee to a nonmember.

The County agrees to provide the union the name, department, class, and payroll deduction status of all unit employees on a monthly basis.

### **5.10 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.

- NOTE: Any communication deemed by the county to be political in nature is prohibited by state law and the government code. (California Constitution Article 16, Section 6 and California Government Code 8314.)

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

- No broadcasting of messages as defined in the County Appropriate Use Policy.
- 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 6 LABOR-MANAGEMENT MEETINGS**

### **6.1 Department Meetings**

Upon agreement regarding an agenda which has been reviewed by the Human Resources Director or his/her designee and the SEIU Local 521 Executive Director, a department head and his/her designees and designated department Union stewards may meet two times per year to discuss issues of mutual concern. If agreeable to both the department head and the stewards, meetings may be more frequent. Meetings shall be held during the department's normal business hours. A steward attending such a meeting during other than his/her normal assigned shift hours shall be paid straight time pay not to exceed two hours. This article is not subject to the grievance procedure.

### **6.2 Labor Management Committee**

#### *Section 1*

It is the intention of the parties to establish a County-wide Joint Labor-Management Committee to provide a forum for labor and management to jointly discuss issues of concern to the employees in the Unit J.

#### *Section 2*

The Joint Labor/Management Committee shall consist of four (4) Management representatives and four (4) employee representatives, one from each bargaining unit; one elected official from SEIU 521 and one SEIU 521 staff member as designated by the Union. The Management representatives will be designated by the County Administrative Officer.

*Section 3*

During the term of this MOU, the Joint Labor/Management Committee shall meet up to six (6) times annually, upon written request of either party, or more often by mutual agreement, during working hours to discuss issues which may include, but are not limited to career training, educational/promotional opportunities, class specifications, training and employee development, and productivity enhancements with monetary incentives. The Committee may also make advisory recommendations to the County Administrative Officer, or his/her designated representative, for consideration.

**SECTION 7 SAFETY**

This section and its subsections are not subject to the grievance procedure.

**7.1 Rules and Regulations**

The County recognizes its obligation and is committed to providing 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 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, practices and conditions and to report any such unsafe practices or conditions to their immediate supervisor.

Stewards shall have reasonable access to work locations of unit employees within their own department to inspect that site for the purpose of ensuring a safe work place. Such access shall be administered in accordance with the Union Access Section 5.5 of this Agreement.

**7.2 Countywide Health and Safety Committee**

The County and the Union shall participate in a countywide Health and Safety Committee which shall meet on a bimonthly basis to review County safety records, policies and programs, and make recommendations for the resolution of health and safety issues brought before it 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 County shall release four (4) Union Representatives, selected by SEIU Local 521, to attend this meeting. In the event a member from NMC or the Health Department is chosen to be on the County Safety Committee that individual would need to be from the NMC Safety or Health Department Safety Committee.

**7.3 NMC Safety Committee**

A NMC Safety Committee shall be formed which shall consist of an equal number of bargaining unit and management representatives and shall have members from the following departments: Nursing, Engineering, Housekeeping, Infection Control, NMC Clinics, Cardiopulmonary, Laboratory, Radiology and Administration. In addition to these core departments, all departments shall be represented on a rotational basis. The committee shall meet on a quarterly basis, or more frequently as needed, or as requested by a majority of the committee. Seven (7) workdays prior to any meeting committee

members will inform a management representative (to be designated) of those topics they wish to discuss at the upcoming meeting.

The NMC Safety Committee will assist in developing guidelines for infectious disease control.

#### **7.4 Health Department Safety Committee**

A Health Department-wide Safety Committee shall be formed. SEIU shall appoint one bargaining unit representative from each of the units represented by SEIU, Units F, H, J and K. The committee shall meet on a monthly basis, or as otherwise mutually agreed by the parties. Seven (7) workdays prior to any meeting committee members will inform the Health Department Safety Coordinator of those topics they wish to discuss at the upcoming meeting.

The Health Department Safety Committee will assist in the review of guidelines and implementation of infectious disease control and departmental safety issues.

#### **7.5 Vaccinations**

Monterey County is responsible for providing vaccinations as defined by the most current Cal OSHA regulations, or the appropriate regulatory body for the job activities. Any worker who elects to be vaccinated at a non-county facility shall bear the full cost of the vaccination and the follow up testing and provide appropriate documentation to their human resources department.

#### **7.6 Exposure**

Monterey County is responsible for providing exposure safety measures as defined by the most current CalOSHA regulations, or the appropriate regulatory body for the job activities, and the employee's risk of exposure to harm.

If an employee believes standard protocol is not appropriate for him/her because of a medical condition, that employee shall be responsible for seeking the advice of his/her personal medical provider or specialist and presenting a request for accommodation. The employee shall bear the full cost of such consultation of their own doctor unless otherwise proscribed by law.

#### **7.7 Public Works Accident Review Committee**

A Public Works employee shall be notified in writing of a scheduled department accident review committee review of an accident in which the employee was involved.

If either at the time of written notice or during the course of the accident review meeting there is reason to believe that the possibility exists for a recommendation for disciplinary action, the employee will be so notified and may have a union representative present. If a union representative is not available, the meeting will be postponed until one is available.

## 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 for 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 the 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 of such specific and express terms thereof 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 right hereunder shall not in any way, directly or indirectly, be subject to the grievance procedure set forth herein.

## SECTION 9 WAGES

The County will provide a wage increase to the base salary schedule to members of SEIU as follows:

- 2013:** Contingent upon all classic employees actually and permanently contributing an additional 3.5% towards the employee's PERS contribution, (for a total of 7% retirement contribution), there shall be a permanent 3.5% base salary increase for all classifications covered by this MOU, effective the first full pay period following Board of Supervisors approval of the Tentative Agreement dated October 14, 2013.
- 2014-2015:** 2.0% across the board wage adjustment effective the first full pay period in July, 2014.
- 2015-2016:** 3.0% across the board wage adjustment effective the first full pay period in July, 2015

## SECTION 10 CALL-OFF

### **10. 1. Clinical**

Natividad Medical Center employees may be called off their regularly scheduled shifts for lack of work.

A. The order of call off shall be as follows:

1. Anyone who wishes to volunteer for call off will be considered
2. Agency/Registry Temporaries
3. County temporaries (per diems)
4. County permanent employees on overtime (part-time or permanent)
5. County permanent part-time (the employer will make an attempt to rotate the call-off of employees from this category on the shift to mitigate the impact of the call-off on any single employee).
6. County full-time (0.9 FTE or above) (the employer will make an attempt to rotate the call-off of employees from this category on the shift to mitigate the impact of the call-off on any single employee).

B. Natividad Medical Center will attempt to contact the employee at his/her contact phone number at least one and one half hours prior to his/her scheduled shift. Once the attempt to contact the employee is made NMC will not be required to pay the employee show up time. The employer shall maintain a log of each attempt to contact the employee. The employee shall be responsible for insuring that NMC is utilizing a valid, current contact number.

C. Once an employee is called off duty, the employee is not obligated to make him/herself available for work unless the employee agrees to be placed on On-Call, at the On-Call rate. Should the employee be called back, the employee will receive straight time for the remainder of their regularly scheduled shift.

D. The employee shall be entitled to two (2) hours show-up pay when an employee is called off duty within twenty (20) minutes after reporting to work for their regular scheduled shift.

E. An employee may be called off for any period of time, up to the employee's entire shift. In the event an employee is called off for less than the entire shift, the employee must work a minimum of 4 hours.

An employee may only be called off one time per shift. In the event an employee is called off for less than an entire shift, whatever hours are scheduled are guaranteed to the employee for that shift.

F. The employee may use any Paid Time Off (i.e., PTO-vacation) or compensatory time that is available in the employee's PTO-vacation or compensatory time bank prior to the

day they are called off. For purposes of this section, Paid Time Off (i.e., PTO-sick) will not be used to compensate the employee for call-off time.

**G.** In the case of advance notification (as provided for in B above), an employee may not be called off for more than forty (40) hours in any two consecutive pay periods, during which time the employee's insurance benefits will continue.

**H.** Employees may be offered the opportunity, on a voluntary basis, to float to other departments within the hospital depending upon hospital needs and employee skills.

### **10. 2. Overhead**

For overhead departments (as defined below), NMC will monitor productive hours per week or pay period. Each department at NMC will have a productivity target (hours per week/pay period) set by the NMC CEO.

It is the department managers' responsibility to regularly monitor their departments productivity to ensure the department is meeting their per statistic (for direct patient care departments), per week or per pay period target. In the event a department exceeds the productivity threshold set by the CEO, the department manager will call off staff to meet the target threshold. Prior to making this determination, the department manager will review the productive hours (to include all employees, including management) to determine if they have met their target. Time not counted towards productive hours include: vacation, compensatory time off, or sick leave (if taken prior to a call off). For purposes of determining productivity, productive hours include but are not limited to the following: training, orientation, workers compensation (light duty worked hours), temporary employees, and registry.

Call Offs may be implemented during the course of a day, week, or pay-period as determined by the department manager. The Call Off order will follow Section 10.1.A. above and maximum amount of Call Off hours will follow Section 10.1.G. above. When an employee is called off, they may utilize accrued vacation and/or comp time, or floating holiday.

In the event the CEO determines that patient census and the hospital's and/or department/departments' total productive hours have not met the required threshold after a two-week period, he has the discretion to place a department or departments on a holiday schedule (close department or reduce regular work hours of a department). This may be done in conjunction with a County recognized holiday (i.e. the work day before or the work day after a recognized County holiday). Notice to employees cannot be less than 14 days prior to the requested "Call Off day". However, in the event that a County Holiday is more than a month away, the NMC CEO may select a day to be determined by him to place a department/departments on a holiday schedule (close department or reduce regular work hours of a department). In no event shall a department or departments be placed on a holiday schedule more than six (6) times in a fiscal year.

### **Overhead Department List**



Accounts Payable  
 Acute Rehabilitation  
 Administration  
 Administration- Nursing  
 Bio-Medical Engineering  
 Birth Certificates  
 Business Office  
 CHAMACOS  
 Child Advocacy Center  
 Death Certificates  
 Diabetic Education  
 Dictation  
 Discharge Planning  
 Employee Health  
 Engineering/Facilities  
 Family Practice Residency Program  
 Finance  
 Financial Counseling  
 Foundation  
 Human Resources

Infection Control  
 Information Systems (IT)  
 Library  
 Linen/Laundry  
 Managed Care  
 Marketing  
 Public Relations  
 Materials Management  
 Storeroom  
 Medical Education  
 Medical Records  
 Medical Staff  
 Nursing Education  
 Payroll  
 Quality Management  
 Storeroom  
 Telecommunications  
 Transcription  
 Utilization Review

<b>SECTION 11 OVERTIME</b>
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**11.1 All Unit J (except NMC)**

If in the judgment of an appointing authority, extra hours are required to be worked by an employee for the accomplishment of County business, the appointing authority may authorize and require the performance of said extra hours.

Overtime shall be defined a time actually worked in excess of forty (40) hours in a workweek.

For the purposes of this section the hours and dollars associated with a County holiday (whether actually worked or not), vacation, Annual Leave-Vacation and compensatory time off hours shall be considered as hours worked for the purpose of determining overtime. An individual employee's work schedule shall not be altered for the purpose of eliminating overtime compensation equal to that earned as a result of the employee using approved vacation or compensatory time off hours.

Within the same work period (seven (7) days for departments for which overtime is defined as time actually worked in excess of forty (40) hours in a work week) an appointing authority requiring extra hours to be worked by an employee, may require the employee to flex their work hours equal to the extra hours worked with no less than 30-hours' notice to the employee so as not to exceed the overtime threshold for the work period.

11.1.1 All County job classes shall be designated as either 1) overtime eligible, or 2) overtime exempt. Each of the above categories shall be assigned a special code which shall appear beside each class as listed in the County salary resolution.

11.1.2 Except as otherwise provided herein, employees in overtime eligible classes shall be compensated for overtime authorized by their appointing authority by either 1) compensatory time off at the rate of one and one-half (1-1/2) hours credit for each hour of overtime, or 2) in cash at the rate of one and one-half (1-1/2) times the employee's regular rate of pay.

A. Forensic Evidence Technician rules regarding CTO

For Forensic Evidence Technicians the method of compensation shall be determined by the appointing authority after consulting the affected employee, except that Forensic Evidence Technicians shall be allowed to accumulate up to one hundred sixty (160) hours of compensatory time off, after which maximum all overtime shall be paid in cash.

B. Communications Dispatch rules regarding CTO

For Communications Dispatcher I/II, the method of compensation shall be determined by the appointing authority after consulting the affected employee.

The employees in these classifications shall be allowed to accumulate up to one hundred sixty (160) hours of compensatory time off (CTO), after which maximum all overtime shall be paid in cash.

C. CTO Balance is under 40 hours

The method of compensation (cash or accrual) shall be determined by the Appointing Authority after consulting the affected employee as long as the employee's compensatory time off accrual balance is no more than forty (40) hours.

D. CTO Balance is 40 or more hours

If an employee has a compensatory time off (CTO) balance of at least forty (40) hours the employee shall have the choice of compensation for overtime by either cash or CTO.

11.1.3 Employees in overtime exempt classes shall not receive compensation for hours worked beyond eighty (80) hours in a pay period except as may otherwise be authorized by the Board, but may be authorized administrative leave with pay by their appointing authority or his/her designee in the event that County operations result in extraordinary work assignments for such employees. Such administrative leave shall not exceed two (2) working days in any pay period. The County Administrative Officer may approve additional administrative leave with pay, upon written request from an employee's appointing authority showing special circumstances warranting such leave. Such approval shall be given in writing.

The provisions of this item shall be administered by the appointing authority, but shall in no way establish any right to any type of overtime compensation for overtime exempt employees, regardless of whatever records are kept by the appointing authority.

**11.1.4** For all other unit job classes that are overtime eligible:

**A.** The method of compensation shall be determined by the Appointing Authority after consulting the affected employee as long as the employee's compensatory time off accrual balance is no more than forty (40) hours.

**B.** If an employee has a compensatory time off accrual balance of at least forty (40) hours but no more than eighty (80) hours, the employee shall have the choice of compensation for overtime by either compensatory time off or cash.

**C.** An employee shall not be allowed to accumulate more than eighty (80) hours of compensatory time off, above which maximum all overtime compensation shall be paid in cash.

Credit for compensatory time off shall be reported on payroll sheets submitted to the Auditor-Controller each pay period, and a balance shall be kept on the employee's check stub. The use of compensatory time off shall be administered by the appointing authority.

**11.1.5** The provisions of this item shall be administered by the appointing authority, but shall in no way establish any right to any type of overtime compensation for overtime exempt employees, regardless of whatever records are kept by the appointing authority.

The County agrees to observe all requirements of the Fair Labor Standards Act regarding the compensability of travel time as work time.

**11.2 *Natividad Medical Center Overtime***

**A.** If in the judgment of an Appointing Authority, extra hours are required to be worked by an employee for the accomplishment of County business, the Appointing Authority may authorize and require the performance of said extra hours.

Overtime for employees of Natividad Medical Center shall be defined as time actually worked in excess of eight (8) hours in a day and/or eighty (80) hours in a biweekly pay period. For employees of Natividad Medical Center on alternative workweek schedules, overtime shall be defined as time actually worked in excess of (ten) 10 or (twelve) 12 hours in a day and/ or forty (40) hours in a work week.

Regular rate of pay shall be the rate of pay calculated as provided for by the Fair Labor Standards Act. Hours and the corresponding dollar values of: Paid Time Off (i.e. PTO-vacation), shall be counted as hours worked for purposes of determining overtime.

Paid Time Off (i.e. PTO-sick, PTO- Bereavement, PTO-holiday not worked and Compensatory Time Off) shall not be counted as hours worked for purposes of determining overtime. Savings realized from this action, in the first year of this agreement, will be used towards addressing compensation issues related to the recruitment and retention of employees in critical hospital positions at Natividad Medical Center for SEIU Local 521 bargaining unit classifications. The parties further agree that

the purpose of this section is to better prepare the County and Natividad Medical Center to compete as the hospital of choice for Monterey County and provide the highest quality of care with recruiting and retaining a cutting edge workforce.

**B. Exempt/Non-Exempt**

All County job classes in this representation unit shall be designated as either 1) overtime eligible or 2) overtime exempt. Each of the above categories shall be assigned a special code, which shall appear beside each class as listed in the County salary resolution. County overtime designations are separate from overtime designations made in compliance with the Fair Labor Standards Act.

**C. Overtime Compensation**

Except as otherwise provided herein, employees in FLSA overtime eligible classes shall be compensated for overtime authorized by their Appointing Authority by either:

1. Compensatory time off at the rate of one and one-half (1 1/2) hours credit for each hour of overtime, or;
2. In cash at the rate of one and one-half (1 1/2) times the employee's regular rate of pay.

The Appointing Authority shall determine the method of overtime compensation after consulting the affected employee.

Credit for compensatory time off shall be reported on payroll sheets submitted to the Auditor-Controller each pay period, and a balance shall be kept on the employee's check stub. The Appointing Authority shall administer the use of compensatory time off.

An employee shall not be allowed to accumulate more one hundred and sixty (160) hours of compensatory time off above which maximum all overtime compensation shall be paid in cash.

**D.** Employees in overtime exempt classes shall not receive compensation for hours worked beyond forty (40) hours in a work week or eighty (80) hours in a pay period except as may otherwise be authorized by the Board of Supervisors, but may be authorized administrative leave by their Appointing Authority or his/her designee in the event that County operations result in extraordinary work assignments for such employees. Such administrative leave shall not exceed two (2) working days in any pay period. The County Administrative Officer may approve additional administrative leave with pay, upon written request from an employee's Appointing Authority showing special circumstances warranting such leave. Such approval shall be given in writing.

The provisions of this item shall be administered by the Appointing Authority, but shall in no way establish any right to any type of overtime compensation for overtime exempt employees, regardless of whatever records are kept by the Appointing Authority.

**E. Special overtime provisions**

All professional employees exempt from the Fair Labor Standards Act provisions may upon their own initiative volunteer for shifts additional to their regularly assigned shift schedule. Such voluntary shifts shall not exceed sixteen (16) hours per pay period and shall be paid at straight time.

The County agrees to observe all requirements of the Fair Labor Standards Act regarding the compensability of travel time as work time.

## SECTION 12 SPECIAL PAY PRACTICES

### **12.1 Shift Differential**

Employees in all bargaining unit classes who are assigned to and work eight (8) hours or more between 2:31 p.m. and 7:59 a.m. shall be eligible for shift differential pay.

An employee who is called back to work a partial shift for an employee who is regularly assigned to a shift which is eligible for shift differential pay shall be eligible for shift differential pay for hours worked between 5:00 p.m. and 8:00 a.m.

Employees eligible for shift differential shall be paid one dollar and fifty-five cents (\$1.55) per hour for hours actually worked during times designated herein.

#### NMC Only

A shift differential of one dollar and fifty-five cents (\$1.55) per hour shall be paid to all represented employees who, as part of their regular shift, work at least four (4) hours between 3:00 p.m. and 6:59 a.m., and whose shift starts after 12:31 p.m.

An employee interested in a change of shift assignment may file a written request for said change with the department. When making shift assignments, management's primary considerations shall be employee written requests and length of service with the department. If management determines that special skills and/or experience are required, said needs will be made known to the employees in the affected classes within the department and these shifts will be assigned based on request(s) and/or length of service of those employees who meet the special skill and/or experience requirements.

Determination of need and assessment of special skills will be at the sole discretion of the departments.

**12.1.1 Communications Dispatch Designated Regular Hours:** Shift differential shall be paid to employees in the Communications Dispatcher classifications (CD I/II) whose work schedule calls for the employee to work at least five hours between 6 p.m. and 6 a.m.

**12.1.2 Communications Dispatch Overtime Hours:** Shift differential shall be paid to employees in the Communications Dispatcher classifications (CD I/II) who work overtime between 6 p.m. and 6 a.m. on an hour for hour basis.

**12.1.3 Communications Dispatch Exclusions:** Shift differential shall not be paid for hours not actually worked (i.e. for holidays, vacations, sick leave or other time in paid status but not worked). Shift differential shall not be paid in increments of less than one hour.

## **12.2 On-Call**

Those employees who are placed on On-Call duty in accordance with rules and procedures established by the County for such duty shall be paid at the rate of two dollars and fifty-five cents (\$2.55) per hour. Any worker called by telephone or called out while on On-Call shall receive a minimum of one (1) hour pay. The intent of the parties is to compensate employees for a minimum of one hour, or time actually worked, whichever is greater. For example, if an employee receives calls at 1:00 p.m., 1:15 p.m., 1:20 p.m., 1:55 p.m. and the last call finishes at 2:10 p.m., s/he is credited for one hour and ten minutes, which under the County's Payroll Time and Leave Reporting policy, would round to one hour and fifteen minutes. And, if an employee receives calls at 1:00 p.m., 1:15 p.m., 1:20 p.m. and 1:45 p.m., s/he is paid for one hour, not four hours. It is not the intent that employees be paid for multiple telephone calls received within a one hour period. While it is understood that the County has the sole authority to change the rules and procedures by which On-Call is administered, no substantive changes in said rules and procedures will be implemented without notification and an opportunity to respond to the Union. No employee shall be paid for On-Call duty time and other compensable duty time simultaneously. Time actually worked while on On-Call duty will be compensated at the employee's regular rate of pay.

### *On-Call for NMC Employees:*

The Chief Executive Officer or his/her designee, after receiving written approval from the Chief Executive Officer, may place employees on On-Call duty. On-Call duty refers to a situation where an off duty employee holds him/herself available for immediate response as directed by management. No employee shall be paid for On-Call duty time and other compensable duty time simultaneously.

Employees placed on On-Call duty shall be paid five dollars (\$5.00) per hour while on On-Call duty. Holidays shall be compensable for On-Call duty.

Any worker who is directed by management to return to her/his work assignment after physical departure from the worksite shall, upon returning to the worksite, receive a minimum of two (2) hours at the employee's regular hourly rate of pay. However, if an employee is called back within that same two (2) hour window the time will be counted as the same two (2) hour minimum. Any hours worked in excess of the two (2) hour minimum will be recorded as hours worked and paid at the employee's regular hourly rate of pay. Employees at Natividad Medical Center must clock-in and clock-out upon arrival and departure when returning from or to On-Call.

Any worker called by telephone to respond to an inquiry by management and not directed to physically return to the worksite shall receive a minimum of one (1) hour at the employee's regular hourly rate of pay. However, inquiry calls within that same one (1) hour window will be counted as the same one (1) hour minimum. Any inquiry calls in

excess of the one (1) hour minimum will be recorded as hours worked and paid at the employee's regular hourly rate of pay. (At NMC, examples of an "inquiry call" in this case may include but not be limited to: assisting someone over the telephone to respond to or reset an alarm; or to log onto a computer system remotely for troubleshooting purposes.)

### **12.3 Call-Back- Natividad Medical Center**

Where an employee who is not placed on-call or otherwise being compensated to hold themselves available and who, following the completion of his/her work day and departure from his/her place of employment work-site, is unexpectedly called back and must report to their work site in response to a directive from management because of unanticipated work requirements, that employee shall be credited with a minimum of one (1) hour or actual time worked whichever is greater. The employee shall be paid one and one-half (1 1/2) times the base rate. The employee may be required to perform other duties for the duration of the one hour at the discretion of management.

Once an employee has initially been called back to duty under Call Back conditions, no additional Call Back work credit shall be credited for any subsequent call back which occurs within the initial call back minimum period. Correspondingly, only one call back minimum will apply during any subsequent call back period which occurs more than one (1) hour after the completion of any prior Call Back period.

### **12.4 Bilingual Skill Pay**

#### ***Bilingual Position Designations:***

The Natividad Medical Center Chief Executive Officer or his/her designee and a department head, with the approval of the Human Resources Director or his/her designee, shall designate:

#### **12.4.1 Primary Bilingual Positions:**

Primary 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 primary bilingual designation is assigned to a position, not an incumbent, and in the event the incumbent moves to another position or if the primary bilingual designation of the position is removed because the duties no longer meet the criteria for such designation, his/her bilingual pay will cease.

#### **12.4.2 Provisional Bilingual Employees:**

A provisional bilingual employee occupies a position for which bilingual skills are not required, but in order to provide necessary services the department must utilize the bilingual skills of the current incumbent. An employee whose bilingual skills are required on a regular basis for an amount of time that, on the average, equals less than twenty percent (20%) of the total work time may be designated as a provisional bilingual employee if there is no alternative method for providing essential bilingual services. Provisional bilingual employee designations expire when any certified incumbent leaves

the department in which the designation was made or upon termination of the designation by the department head.

#### **12.4.3 Testing:**

- A.** The employee shall be paid either at Primary or Provisional level. Should any employee transfer to a position which doesn't require bilingual skills (as defined by the Human Resources Department) that employee shall not continue to receive bilingual pay.
- B.** In order to continue to receive bilingual pay, the employee shall be retested as deemed necessary by the department but no less than every 5 years.

#### **Qualifications:**

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

Provisional bilingual designations require certification by the Human Resources Department of demonstrated proficiency appropriate for the needs of the department in the required language.

An employee who has received certification of proficiency appropriate for one position may be required to meet new proficiency requirements if he/she moves to a bilingual designated position, which utilizes a different specialized or technical vocabulary.

#### **12.4.4 Natividad Medical Center-Qualified Medical Interpreter:**

Employees at NMC, who complete the Medically Qualified Interpreters forty (40) hour program at NMC and are designated as a Qualified Medical Interpreter shall receive a stipend. Continuation of this stipend is dependent upon completing the annual education requirement determined by NMC Human Resources to meet The Joint Commission Standards.

#### **Bilingual Pay:**

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

Eligible employees shall receive only one bilingual pay provision:

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



An employee designated a provisional bilingual employee shall be paid a bilingual pay differential of twenty dollars (\$20.00) per pay period.

An employee designated as a Qualified Medical Interpreter at NMC shall receive sixty dollars (\$60.00) per pay period.

**Administration:**

The Human Resources Director or his/her designee is responsible for administration of the bilingual program including approval of bilingual position designations and proficiency testing and certification.

Administration responsibilities shall also include a periodic review of the number and location of bilingual position designations.

The NMC CEO or his or her designee is responsible for administration of the Qualified Medical Interpreter program.

**12.5 Show Up Time**

If a permanent full-time employee reports to work for their regularly scheduled shift and is not permitted to work because of circumstances within the control of the County, that employee shall be entitled to two (2) hours of pay.

**12.6 Y-Rate Procedure**

“Y-rating” is a procedure whereby an employee who is reclassified to a class having a lower salary range than his/her current class may retain his/her current salary after the reclassification to the lower class. The employee’s salary at the time of the Y-rate shall not increase until such time as the maximum salary of the class to which the employee was reclassified exceeds the employee’s salary.

When an employee’s current rate of pay falls between the step authorized for the lower paid class, he or she shall continue to receive the current rate of pay until such time as an authorized increase in pay or step increase can be granted which places the employee at a step in the range without increasing his/her salary by an amount more than that normally provided by the salary increase or step advancement.

The salary on Y-rate shall be only the rate of pay in effect for the employee’s class and step on the day prior to the effective date of the Y-rate action, as shown in appendices A and B of the Personnel Practices & Procedures Resolution.

Bilingual, float and charge pay differentials shall not be added to the Y-rate.

The Human Resources Director or his/her designee shall have the sole authority to approve or deny a Y-rate for an employee who is reclassified to a lower class.

A permanent employee with over one (1) year of continuous service and who is not on probation in a class at the time of his/her reclassification to a lower class, who is denied

the application of a Y-rate by the Human Resources Director or his/her designee, may appeal such denial to a joint committee consisting of the Human Resources Director or his/her designee, a representative chosen by the Union and a third party chosen by the first two appointees.

All other employees not Y-rated shall have no appeal. Y-rating is not subject to the grievance procedure.

### **12.7 Mileage Allowance**

A unit employee, who is required to operate his/her own or a privately owned vehicle for the performance of official duties for the County of Monterey, shall be allowed, reimbursed and paid the Internal Revenue Service rate for each mile necessarily traveled each month.

At his/her discretion, the Agriculture Commissioner may provide Produce Inspectors use of a County vehicle in lieu of mileage allowance.

Mileage allowance shall be allowed in accordance with the County of Monterey Travel Policy and accompanied by required documents.

### **12.8 Professional Development Stipend**

On the first pay period of each new calendar year, if the employee is receiving regular wages or integrated hours (i.e. is receiving a County check), Unit employees will receive a professional development stipend of \$100. Employees in unpaid leave of absence status as of this date shall also be entitled to this stipend in the pay period following that in which the employee returns to active paid status.

### **12.9 Communications Dispatch**

#### **12.9.1 Charge Dispatcher Pay**

Charge Dispatcher Pay differential of one dollar and fifty cents (\$1.50) per hour shall be paid to an employee in the classification of Communications Dispatcher II assigned limited duties of the Duty Supervisor such as: covering last minute staffing shortages, coordinating technical work in the Center when needed, and deploying dispatchers to channel assignments. The differential is paid on an hour-for-hour basis for the actual time performing the higher level duties.

To be eligible for the Charge Dispatcher Pay, the following shall apply:

1. Assignment is only made if no Shift Supervisor is available;
2. Assignment is approved by the Department Head or designee;
3. Assigned dispatcher must have successfully completed the Assistant Duty Supervisor Training prior to being assigned.

### **12.9.2 Competency Pay**

Competency Pay differential of two dollars (\$2.00) per hour shall be paid to an employee in the classification of Communications Dispatcher II cross trained to dispatch both Law and Fire disciplines. Training will be based on operational business needs and may include up to two (2) employees per year.

To be eligible for Competency Pay, the following shall apply:

1. Certified competency by the Operations Manager as a Law/Fire Cross-Trained Dispatcher (All channels including Salinas Police Department and Sheriff's Office);
2. Perform Law/Fire dispatch assignment for a minimum of four (4) hours per week

The Director of Emergency Communications may re-evaluate and/or reassign a Law/Fire Cross-Trained Dispatcher.

### **12.9.3 Communications Training Officer Pay (CTO)**

Training Pay differential of eight percent (8%) has been deleted and replaced with the following:

Communications Training Officer Pay (CTO) of two dollars and sixty-five cents (\$2.65) per hour shall be paid to an employee in the classifications of Communications Dispatcher I and II assigned to train newly hired dispatchers. The differential is paid on an hour-for-hour basis during actual training time.

To be eligible for CTO Pay, the following shall apply:

1. Trained, Certified and designated as a Communications Training Officer by the Operations Manager;
2. Assignment is approved by the Operations Supervisor and/or Manager;
3. Training assignments shall be no less than one full hour (60 minutes) in duration

### **12.10 Incentive Pay for Deputy Agricultural Commissioner or Deputy Sealer License**

Upon authorization by the Appointing Authority, the County shall provide a pay incentive of 3% to employees in the classifications of Ag Inspector/Biologist III and Weights & Measures Inspectors III for possession and maintenance of either Deputy Agricultural Commissioner or Deputy Sealer license. This incentive pay is limited to 3% per person. If the license is allowed to lapse, the special pay practice will cease until such time as the employee completes the necessary steps to regain the license.

### **12.11 Temporary Special Assignment Pay**

Employees shall be eligible for Temporary Special Assignment Pay as provided in the Personnel Policies and Practices Resolution No. 98-394 (A.9.14).

## **12.12 NMC Certification Pay**

### **A. Health Information Management Coder I/II**

The Health Information Management Coder I/II may receive Certification Pay if they possess one of the following:

- Certified Professional Coder (CPC)- 5% or
- Certified Professional Coder- Payer (CPC-P)- 5%

The certification must be submitted to the NMC Human Resources Department and be validated with the AAPC.

### **B. Patient Account Representative I/II Senior Patient Account Representative**

The Patient Account Representative I/II or Senior Patient Account Representative may receive Certification Pay if they possess and maintain the following certification:

- Certified Professional Biller (CPB)- 5%

The certification must be submitted to the NMC Human Resources Department and be validated with the AAPC.

## **SECTION 13 NO PYRAMIDING**

Overtime eligibility provisions are not cumulative. An employee shall not be entitled to multiple overtime compensation even though more than one overtime condition in this MOU may apply.

## **SECTION 14 CLASSIFICATION PLAN MAINTENANCE**

### **14.1 Classification Study Requests**

The Human Resources Director or his/her designee will review the status of pending classification studies requests with a staff member of the Union no more than once every ninety (90) calendar days.

The decision of the Human Resources Director or his/her designee with respect to the request shall not be subject to the grievance procedure.

In response to a written request from the Union for a classification study on a form prescribed by the Human Resources Department, the Human Resources Department shall acknowledge receipt of said request within ten (10) working days, and if a study is justified, indicate the target date for completion of the study within thirty (30) working days of Human Resources acknowledgement notice. Class studies will be performed in a timely manner.

If the request for a study is denied, the Personnel Analyst will provide justification for the denial. The Union may file a written appeal within ten (10) working days of receipt of denial with the assigned Personnel Analyst.

If the request for a classification study was justified and the results of the study are not satisfactory to the Union, the Union may file a written appeal within ten (10) working days of receipt of results with the assigned Personnel Analyst.

If the denial or results of a study are not satisfactorily resolved with the analyst, the Union may appeal, in writing, to the Department Human Resources manager indicating the specific justification for appeal of the Analyst's decision, within ten (10) working days from receipt of the analysts decision. If the denial or results of a study are not satisfactorily resolved with the Department Human Resources manager, the Union may appeal in writing to the Human Resources Director, or NMC CEO for employees of NMC, or his/her designee, within ten (10) working days from receipt of the Department Human Resources Manager decision, indicating the specific justification for appeal of the Department's decision. The decision of the Human Resources Director, or NMC CEO for employees of NMC, or his/her designee shall be final.

At the request of the Union, the Human Resources Director, or NMC CEO for employees of NMC, or his/her designee will periodically review the status of pending classification studies requested by the Union, with a staff member of the Union.

The results of classification studies requested by the Union will be sent to the Union prior to going to the Board.

The provisions of this section shall not be subject to the grievance procedure article of this Agreement.

#### **14.2 Working Out of Class Pay**

When an employee is assigned to and performs significantly all of the duties of a higher allocated position in a classification whose salary range is at least five percent (5%) higher than the range of the employee's regular classification, that employee shall be compensated at the step in the higher classification that provides an increase to the assigned employee of at least five percent (5%). Such assignment shall not change the unit designation or other benefits of the assigned employee except when a higher vacation accrual limit is in effect for the higher class. In such case, the higher vacation accrual limit applicable to the higher class shall be used. The assignment must be for over ten (10) consecutive working days. Such additional compensation shall begin on the first day of the pay period following the assignment to the duties of the higher position.

- A. For working out of classification the employee shall be compensated at the step in the higher classification that provides an increase to the assigned employee of at least five percent (5%). As such, if the 5% does not result in the employee reaching at least the first step of the higher salary range, the employee will be placed at the first step of the higher salary range.

At one hundred eighty (180) days, the working out of classification assignment will be reviewed to determine whether it is appropriate for this person to continue working out of classification.

Employees Working out of Classification or who are removed from Working out of Classification duty as a result of poor performance shall not be subject to unsatisfactory performance evaluation for their participation in said assignment. Participating employees removed from such assignment as a result of unsatisfactory performance shall instead be returned to their official job classification and duties. Failure to successfully complete a Working out of Classification assignment, as a result of performance, shall not have an impact on employee's official job classification or duties.

## SECTION 15 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 forty (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 toward the monthly premium for eligible retirees enrolled in a PERS health insurance program as directed by CalPERS.

### **15.1 Flexible Benefits Plan**

#### **A. General Provisions**

The County will 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

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.

In-Lieu Payout

For each month that the full County non-elective and elective contributions are not used by an employee to obtain benefit options under this plan, the full amount of funds not utilized shall be forfeited.

Flexible Benefits Plan Administration

A. 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 directed by CalPERS in accordance with SB 1464. The maximum non-elective contribution will be determined annually and communicated by CalPERS.

#### *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 monthly premium 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 monthly premium for all eligible permanent employees. During the term of this contract, should the vision (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 vision (employee only premium) decrease, the County shall retain the savings from the decrease.

#### **C. County Elective Contributions**

Pursuant to this Agreement, the County elective contribution towards the cost of CalPERS Choice enrollment for a full-time, permanent employee shall result in an employee out-of-pocket amount of: \$0.00/mo (employee only); \$61/mo (employee plus one); and \$100/mo (employee plus family).

Part-time permanent unit employees who are scheduled to work a minimum of forty (40) hours, but less than sixty-four (64) hours, will receive half (1/2) of the County elective contributions received by the full-time permanent unit employee.

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 a PERS plan offered through employment with the County of Monterey.

#### **15.2 Alternative Benefit Option**

Eligible, full-time unit employees, who are regularly scheduled to work sixty-four (64) hours or more per pay period, providing proof of alternative health insurance coverage shall be reimbursed up to:

- Monthly County Contribution
- Employee/Subscriber up to \$310.00 (Monthly)
- Dependent up to \$248.00 (Monthly)



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:

- Monthly County Contribution
- Employee/Subscriber up to \$155.00 (Monthly)
- Dependent up to \$124.00 (Monthly)

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 the County guidelines. County and Union 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.

### **15.3 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 consideration of the recommendations of the Health Insurance Review Committee and 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. The County shall provide Union and employees, a thirty (30) day written notice for premium rate changes for the County's self-funded plan.

### **15.4 Retiree Health Insurance**

In reference to Section 15.1, Medical Insurance, should there be a mutual reopener on health insurance; SEIU may discuss health insurance for retirees.

### **15.5 Life**

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

### **15.6 Health Insurance Review Committee**

A Health Insurance Review Committee shall be composed of representatives from the County and duly designated bargaining units as follows:

- County Administrative Officer appointees 6 Members
- SEIU-521 –3 Members
- Sheriff 1 Member
- Attorneys 1 Member
- Management Compensation Committee 1 Member

- Insurance Broker Advisory Member

The Committee shall meet on a monthly basis and shall review experience reports and other pertinent information and may make recommendations on plan administration and/or structure to the County Administrative Officer.

#### **15.7 Vision Examination and Glasses for Computer Operators**

The County provides an option for a second (2<sup>nd</sup>) pair of glasses tinted and designed for use with computers for an employee whose manager certifies in writing to Central Benefits that the employee uses a computer 60% or more of his/her normal work time in order to perform duties. Manager certification and endorsement of eligibility for a computer glasses by Central Benefits must occur prior to an eye examination for an employee to be eligible for the computer glasses option.

#### **15.8 Conditional Re-opener**

In the event the Health Insurance Review Committee or the Risk Manager recommends plan modification to the County Administrative Officer and the parties (i.e., Union and the County) agree on the modifications, the parties will reopen this Agreement to allow implementation of the agreed upon modifications.

#### **15.9 Physical Examinations**

Permanent full-time employees in unit J shall be entitled to a physical examination by appointment at Natividad Medical Center on a biennial basis (i.e., an examination every other year). Results of the examination shall be treated confidentially.

#### **15.10 Disability Leave of Absence**

##### State Disability Income Protection (SDI) Leave:

When an employee is on leave of absence and he/she is receiving SDI, in addition to the period of time for which County contributions to health insurance continue as a result of the employee's use of twenty (20) hours or more sick leave per pay period; then he/she shall receive one additional month of County paid medical insurance for the employee only for every eighty (80) hours of sick leave accrual balance he/she had as of the first day of continuous absence resulting from the condition which qualifies him/her for SDI benefits.

##### Workers Compensation:

When an employee is receiving Temporary Total Disability (TTD) Workers Compensation payments (integrated or not), he/she shall receive County paid medical insurance and his/her regular County contribution toward dependent medical insurance so long as the TTD continues. (Note: Normal payroll deductions continue to be withheld from TTD payments.)

#### **15.11 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.

### **SECTION 16 STATE DISABILITY INCOME PROTECTION PLAN**

It is agreed that unit employees shall be covered by the State Disability Income (SDI) Protection Plan at their expense. The SDI benefit will be integrated with County sick leave benefits.

### **SECTION 17 HOLIDAYS**

The following listed days shall be observed during the term of this Memorandum as legal holidays. A holiday shall be equal to eight (8) hours for a full-time employee and pro-rated for part-time employees.

- January 1 New Year's Day
- Third Monday in January Martin Luther King JR's Birthday
- Third Monday in February Presidents' Day
- Last Monday in May Memorial Day
- July 4 Independence Day
- First Monday in September Labor Day
- November 11 Veterans Day
- Fourth Thursday in November Thanksgiving
- Fourth Friday in November Day After Thanksgiving
- December 24\* Christmas Eve
- December 25 Christmas

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

\*Christmas Eve shall be observed as a holiday only on those days when an employee would normally not be scheduled to be off. For example, an employee working a Monday through Friday schedule would observe Christmas Eve as a holiday only when December 24<sup>th</sup> actually fell on a Monday, Tuesday, Wednesday, or Thursday. All employees shall receive an equal number of holidays.

Permanent full- and part-time, or seasonal employees who work on a holiday shall be paid for actual hours worked. In addition, the employee shall be entitled to compensatory time or pay for the observed holiday in accordance with Section 11.C. The choice shall be at the employee's discretion, provided the employee indicates her/his choice in writing to management prior to working the holiday.

## Holidays - NMC Employees:

The County observes the holidays listed below. Unit employees at NMC shall receive holiday pay for any time worked on the actual calendar holiday even when it falls on a Saturday or Sunday.

In the event an employee works a 10 or 12 hour shift, a holiday is still equal to their normal work hours for a full-time employee and pro-rated for part-time employees.

### Holidays:

- January 1-New Year's Day
- Third Monday in January -Dr. Martin Luther King Jr's Birthday
- Third Monday in February- President's Day
- Last Monday in May -Memorial Day
- July 4 -Independence Day
- First Monday in September- Labor Day
- November 11 -Veterans Day
- Fourth Thursday in November -Thanksgiving
- Fourth Friday in November -Day After Thanksgiving
- December 24\* Christmas Eve
- December 25- Christmas

\*When December 24th actually falls on a Monday, Tuesday, Wednesday or Thursday, Christmas Eve shall be observed as a full County observed holiday. For those not working a Monday through Friday schedule, they will receive the same holiday benefits.

All employees shall receive an equal number of holidays.

### Natividad Medical Center

Staffing of County observed and the actual holiday at Natividad Medical Center shall be in the following order:

1. Volunteers in all units(need to submit request to work the holiday in accordance with the vacation request section of this MOU)
2. Regular full-time employees
3. Regular part-time employees (less than 0.8 FTE)

NMC shall post a holiday sign-up sheet in every department ninety (90) days prior to the holiday. Sixty (60) days prior to the holiday, management shall schedule volunteers and registry and per diems for the actual holiday. If management is unable to fill all shifts with volunteers, registry and per diems, regular part- and full-time employees shall be scheduled to work the actual holiday and the County observed holiday unless the employee waives his/her right to work both the observed and actual holiday.

All employees at Natividad Medical Center shall be paid one and one-half (1-1/2) times their base rate of pay for any hours worked on a regularly scheduled County holiday plus straight time compensation or straight time compensatory time off for the holiday.

### **17.1 Floating Holiday**

Consistent with County practices and rules regarding the use of floating holidays, the County agrees to provide one floating holiday for bargaining unit members in accordance with the terms and conditions afforded to other SEIU units. For employees at Natividad Medical Center, the floating holiday shall be kept separate from PTO.

One floating holiday (equivalent to 8 hours for a full-time employee and pro-rated for part-time employees) per calendar year may be taken before or by December 31 of each year. This holiday will not carry over from year to year and no compensation will be paid for this unused holiday.

## **SECTION 18 WINTER RECESS**

In all three years of this Agreement, departments that are able to close (or Division(s) if entire Department is unable to close) between December 26 and December 31 shall close to minimize the County's carbon footprint. The determination for closure shall be made by the Department Head.

- a) Four paid days (which is equivalent to thirty-two [32] hours for a full-time employee) will be made available to Unit J employees to use during the Winter Recess.
- b) If a Department and/or Division is unable to close during this period, four paid days will be made available by December 23. Any time not used by December 22 of the following year, shall be forfeited.
  - i) These "Winter Recess" exchange days shall be scheduled in the same manner as vacation unless the department's policy is to schedule vacation per a vacation sign up list; in which case these days shall be scheduled in the same manner as a Floating Holiday
- c) Unit members must be employed by December 23<sup>rd</sup> (in each applicable year of the contract) to be eligible to receive Winter Recess hours for that year. Employees in *unpaid leave of absence* status as of this date shall be entitled to these hours once the employee returns to active paid status.
  - i) These "Winter Recess" exchange days shall be scheduled in the same manner as vacation unless the department's policy is to schedule vacation per a vacation sign up list; in which case these days shall be scheduled in the same manner as a Floating Holiday
- d) Seasonal employees in an *unpaid* status when the Winter Recess hours are loaded shall be entitled to these hours once the employee returns to active paid status.
- e) No payment for unused Winter Recess hours shall be permitted. Winter Recess hours will not be included in the overtime calculation.

- f) Prorating:
  - i) Employees shall receive Winter Recess hours on a pro rata basis according to their full time equivalency (FTE).
  - ii) Seasonal employees will have Winter Recess hours pro-rated on FTE and pay periods worked per calendar year.

<b>SECTION 19 ANNUAL LEAVE</b>
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Employees currently not in Annual Leave shall convert to Annual Leave at the time of Board of Supervisors approval of this agreement. All current vacation accruals shall roll into Annual Leave. Any sick leave accrual banks will remain available for employees to use in a separate bank from Annual Leave and shall no longer accrue time at the time of Annual Leave transition.

Eligible Employees:

Each full-time permanent and seasonal employee shall be eligible for Annual Leave under the provisions of this article. Part-time permanent employees shall be eligible for Annual Leave on a pro rata basis based on the employee's FTE of record.

Annual Leave Schedule:

For employees appointed to a permanent position, the following Annual Leave schedule shall apply:

Up to two (2) years:	22 days (6:47 hours per pay period)
More than two (2) years:	25 days (7:43 hours per pay period)
More than five (5) years:	28 days (8:38 hours per pay period)
More than ten (10) years:	30 days (9:14 hours per pay period)
More than eighteen (18) years:	33 days (10:10 hours per pay period)
More than twenty-one (21) years:	34 days (10:28 hours per pay period)
More than twenty-five (25) years:	35 days (10:47 hours per pay period)

Accrual Rate Limit:

A maximum of 390 hours of Annual Leave may be accrued.

Buy Back:

Effective July 1, 2014, Units J members may buy back hours in accordance with the requirements outlined below:

Employees may receive a straight-time cash payment for up to forty (40) hours of Annual Leave per calendar year. This Annual Leave buy back shall be subject to the following requirements:

- A. Employees must have one (1) year of service;

- B. Annual Leave must be cashed out in increments of eight (8) hours no more than once per quarter in a calendar year;
- C. For buy back in 2014, the employee must have used eighty (80) hours of vacation during the previous calendar year and in subsequent years, eighty (80) hours of Annual Leave;
- D. The employee must have at least forty (40) hours of Annual Leave remaining after the cash out.

Annual Leave Usage:

Each appointing authority shall be responsible for scheduling the Annual Leave periods of his/her employees in such a manner as to achieve the most efficient functioning of the department or agency and of the County service.

When unscheduled usage of Annual Leave occurs, verification of reason for absence may be required of the employee. Further, County may require medical certification or other substantiating evidence of illness for absences of three (3) consecutive scheduled work days for which sick time is sought.

Verification of sick time may be requested of employee within a reasonable amount of time before, during, or upon the employee's return to work.

Annual Leave shall be counted as hours worked for the purposes of determining overtime, with the exception of Annual Leave used for sick time.

Abuse or Inappropriate Use of Leave:

Medical certification for an absence of a single scheduled work day may be required if a pattern of abuse or excessive use of sick time exists.

Paid Time Off- Natividad Medical Center:

Employees currently not in Paid Time Off (PTO) shall convert to PTO at the time of ratification of this agreement. All current vacation accruals shall roll into PTO. Any sick leave accrual banks will remain available for employees to use in a separate bank from PTO and shall no longer accrue time at the time of PTO transition.

**A. Paid Time Off Coverage:** Paid Time Off (PTO) shall apply to unit employees occupying permanent positions at Natividad Medical Center.

**B. 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 Leave.

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

**C. Paid Time Off Accrual Rate:** Each permanent full-time employee at Natividad Medical Center in the unit shall earn PTO according to the following accrual schedule:

- 0-5 years of service 29 days per year (8:56 hours per pay period)
- After 5 to 10 years of service 34 days per year ( 10:28 hours per pay period)
- After 10 years of service 40 days per year (12:19 hours per pay period)

Permanent part-time employees shall accrue PTO benefits per hours based on FTE status.

**D. Adjustment in PTO Accrual Eligibility Date:** A leave of absence without pay by an employee that exceeds thirty (30) calendar days shall not constitute service for purposes of achieving the time in service toward eligibility for PTO accrual rates. An employee's eligibility date for PTO accrual rates shall be advanced by the number of days of leave of absence in excess of thirty (30) days.

**E. Paid Time Off Accrual Balance Maximum:**

The maximum PTO balance that is allowed is 400 hours.

**F. Paid Time Off Administration of Accrual Maximum (PTO):** When an employee is within two pay periods of exceeding their accrual maximum, management shall, at its option, schedule the employee for time off or pay hours at base rate of pay in lieu of time off.

**G. Paid Time Off Buy Back:** Employees with over one (1) year of service may sell back no more than once a quarter, to the County. A total of no more than one hundred (100) hours of Paid Time Off leave shall be cashed out in any single calendar year if the following condition is met:

- The employee must have at least forty (40) hours of Paid Time Off leave remaining after each quarterly "cash out".

**H. Paid Time Off Usage:**

1. Pre-scheduled Usage: Paid Time Off may be used upon prior request to and approval of management. Except where unforeseen circumstances prevent it, requests to use Paid Time Off must be received no less than thirty (30) days prior to the release date of the department's schedule.

2. 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 for any other reason for which sick leave was formerly used.

Absences due to personal illness and family illness beyond the amount equal to one full shift of eight (8) hours or more shall be charged to sick leave balances if available.

**I. Usage of Paid Time Off on Holidays:**

- If 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.



- If holiday falls on a regularly scheduled day to work and employee works-no time is deducted from PTO bank. Employee is paid one and one-half (1 ½) for all hours worked.

At the employee's option, with concurrent written notice to the departmental payroll, an 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.

- If holiday falls on scheduled day off and employee does not work- nothing is deducted since holidays are in PTO accrual rate.

**J. 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 current rate of pay.

## SECTION 20 SICK LEAVE

### **20.1 Accrual Rate (Valid Until Transition to Annual Leave)**

Unit employees hired prior to February 18, 1984, shall continue to earn sick leave at a rate of approximately twelve (12) days per year. Unit employees hired after February 18, 1984, shall continue to earn sick leave at the rate of approximately ten (10) days per year.

### **20.2 Administration of Sick Leave**

Except for the changes in accrual rates set forth in 18.1 the administrative procedures for sick leave shall continue as in effect as of July 1, 1983.

### **20.3 Family Sick Leave**

Permanent and seasonal employees may be granted use of accumulated sick leave by their appointing authority because of illness of a father, mother, brother, sister, wife, husband, registered domestic partner, child, grandparent, or grandchild, provided in the judgment of the appointing authority, a medical condition exists which warrants the employee's personal attendance. In exceptional cases, such leave may be granted by the County for illness of a father-in-law or mother-in-law when it can be demonstrated that a bona fide illness exists that warrants his/her personal attendance during his/her normally scheduled work hours. 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 calendar year of paid leave when used for such purpose.

### **20.4 Bereavement Leave**

Use of any accumulated leave balances shall be granted by the Appointing Authority because of the death of a member of the employee's immediate family. 'Immediate family' shall mean the father, mother, brother, sister, spouse, child, foster child, grandparent, grandchild, eligible domestic partner, child of eligible domestic partner,

father-in-law, mother-in-law, daughter-in-law, son-in-law, step parent, step daughter, step son, step brother or step sister. Such absence by the employee shall be limited to ten (10) working days per occurrence. Any leave used for bereavement shall not be counted as part of the overtime calculation.

It is the intent of the County to attempt to accommodate newly hired employees who have not accumulated leave balances and are faced with death of an immediate family member as defined above.

As of condition of granting leave for bereavement purposes, the Appointing Authority may request verification of the loss.

### **20.5 Parental Leave**

#### ***Maternity (this section applies only to the pregnant individual)***

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 sick, vacation and paid-time-off leave. Said leaves of absence shall be approved in accordance with the provisions for approval of other types of leaves of absence without pay.

Employees disabled by pregnancy may, if eligible under the Family Medical Leave or California Family Rights Act during the period due to pregnancy.

Employees who elect to participate under the Family Medical Leave / California Family Rights Act during any period of absence resulting from a disability due to pregnancy are required to use accruals and exhaust all accruals before entering unpaid status during any period of disability covered by the Family Medical Leave Act.

#### ***Other Parental Leave***

A unit employee may request a leave of absence without pay in addition to any vacation or sick leave taken in the event of the birth of a son or daughter or the adoption of a son or daughter less than thirteen (13) years of age. Said leave shall:

- • Not be granted in addition to any maternity leave.
- • Be granted to any one employee no more than one (1) time in any two (2) year period.
- • Be granted to no more than one (1) employee as a result of the same birth or adoption.

Said leave shall be approved in accordance with the provisions for approval of other types of leave of absence without pay.

*Other Parental Leave – Baby Bonding*

A unit employee may request a leave of absence in the event of the birth of a son or daughter or the adoption of a son or daughter in accordance with State and Federal laws pertaining to adoption. This leave, when taken concurrent with FMLA/CFRA shall:

- Be identified as Baby Bonding (under CFRA, if eligible);
- Be identified as Baby Bonding (under FMLA if eligible);
- May be granted to any one employee for up to 12 weeks of absence within 12 months of birth or placement for adoption;
- If both parents are eligible for FMLA/CFRA *and* employed by the County, the employees may not exceed a combined total of 12 weeks of absence;
- Require the use of accruals, other than sick leave;
- In the event accruals are exhausted, the employee may be approved for unpaid FMLA/CFRA.

*Other Parental Leave (FMLA/CFRA, certified, serious health condition of a child)*

A unit employee may request a leave of absence in the event of a certified, serious health condition of their child. This leave, when taken concurrent with FMLA/CFRA shall:

- Be granted to any one eligible employee for up to 12 weeks of absence within a 12-month period defined by the calendar year;
- If both parents are eligible for FMLA/CFRA *and* employed by the County, the employees may not exceed a combined total of 12 weeks of absence;
- Require the use of accruals, other than sick leave;
- In the event accruals are exhausted, the employee may be approved for unpaid FMLA/CFRA.

**20.6 Verification of Sick Leave**

County may require medical certification or other substantiating evidence of illness for absences of three (3) consecutive scheduled work days for which sick leave is sought. Verification of sick leave may be requested of employee within a reasonable amount of time before, during, or upon the employee's return to work.

**20.7 Abuse or Inappropriate Use of Sick Leave**

Medical certification for an absence of a single scheduled work day may be required if a pattern of abuse or excessive use of sick leave exists.

**SECTION 21 INVOLUNTARY LEAVE WITH PAY**

An employee may be placed on involuntary leave with pay and benefits for a period not to exceed twenty (20) working days upon a determination by the County Administrative Officer that circumstances exist that make the immediate removal of the employee to be in the best interests of the County and that the employee cannot be effectively used in his/her job classification within the department. Such involuntary leave may be extended by the County Administrative Officer in increments not to exceed twenty (20) working

days. Such involuntary leave is not a disciplinary action and shall not be subject to appeal.

Involuntary leave with pay is separate from the Discipline Section.

## SECTION 22 UNIFORM ALLOWANCE

Every newly hired Parks Department employee in a maintenance classification and Sheriff's employee covered by the agreement who is required to have and maintain a uniform shall receive an advance credit to be used exclusively to purchase required uniform items. Said uniform items shall be considered the property of the Parks Department or the Monterey County Sheriff's Office for a period of one year from the newly hired employee's date of appointment. Any employee whose employment is terminated prior to the completion of one (1) year of service shall return all uniform items to the department or refund the full uniform credit. Employees who receive the initial uniform credit shall not receive an additional uniform allowance during their first year of employment.

- The new hire advance credits shall be:
  - Parks Department maintenance classifications: two hundred dollars (\$200).
- Sheriff's employees in the following classifications shall receive three hundred and fifty dollars (\$350):
  - Vehicle Abatement Enforcement Officer
  - Corrections Specialist
  - Sr. Corrections Specialist
  - Inmate Services Specialist
  - Sr. Inmate Services Specialist
  - Sr. Storekeeper

The monthly uniform allowance for eligible employees and which allowance is not covered by the provisions of the first paragraph of this section shall be as follows:

- The uniform maintenance allowance for eligible employees in the Sheriff's Office will be thirty-five dollars (\$35) per month.
- A uniform maintenance allowance for Parks Department employees in maintenance classifications who are required to maintain a class C uniform shall be twenty-five dollars (\$25) per month.

Payments will be made to each eligible employee no less than quarterly in any year.

The practice of the issuance of coveralls to Public Works Department's employees shall be continued to those presently eligible. In addition, a safety color work shirt shall be issued to Road Maintenance, Bridge Maintenance and Sanitation Worker crew members in those class series on the following basis: Employees as of the date of the initial distribution shall receive an initial supply of five (5) shirts and then three (3) shirts each year thereafter. Employees hired after the initial distribution is made shall receive two

(2) shirts at the time of hire and three (3) additional shirts per year thereafter. The employees shall be responsible for the maintenance of the shirts (laundry, repairs, etc.) and for the replacement of any shirts lost or damaged beyond repair.

The Health Department shall provide Animal Control Officers the first uniform and a monthly allowance of forty dollars (\$40) for the maintenance, repair and replacement of uniforms. If an Officer leaves the classification within one year after receiving the first uniform, all uniform items shall be returned to the Department.

Natividad Medical Center employees who are required by NMC Dress Code policy to wear a uniform will be issued four uniforms per calendar year. Additional uniforms shall be at the sole expense of the employee. Employees shall be responsible for the care and cleaning of the uniforms, with the exception of NMC laboratory employees. The taxability of such uniforms shall be governed by IRS regulations.

Nothing in this section shall be construed to limit the authority of management to require employees to wear a uniform. If employees not covered by the provisions of this agreement are required to purchase or maintain a uniform, the County agrees to meet and confer with the Union concerning a uniform allowance.

### **SECTION 23 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 lost or stolen credit cards shall not be considered.

**B.** Claims based on damage to automobiles are subject to the following provisions.

All four (4) conditions must be met before consideration will be given:

- An employee, who drives his/her car incident to employment, shall have named the County as an additional insured on his/her automobile insurance policy as of the date the employee sustained the loss of his/her automobile.
- Evidence of the required insurance coverage must be presented.
- Invoice for work completed must be submitted. Reimbursement is limited to Two Hundred Dollars (\$200).
- 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 24 RETIREMENT

**A. Additional Tiers:** It is understood and agreed that in the event legislation authorizing a second (2<sup>nd</sup>) and/or third (3<sup>rd</sup>) tier of retirement benefits is enacted during the term of this Agreement, the County may reinstitute the retirement program study group; and the Union agrees to participate in said study group. It is understood that any change in the County retirement program would be subject to the meet and confer process as defined in the Full Understanding Modification, Waiver section of this Agreement.

**B. Due to implementation of the Public Employees' Pension Retirement Act (PEPRA)** CalPERS has designated members as either "Classic" or "New." The employee designation is determined by CalPERS.

**Employee Retirement Contribution:** Contingent upon all classic employees actually and permanently contributing an additional 3.5% towards the employee's PERS contribution, (for a total of 7% retirement contribution), there shall be a permanent 3.5% base salary increase for all classifications covered by the J MOU, effective on the first full pay period following the Board of Supervisors approval of the tentative agreement.

New members, under PEPRA, shall contribute fifty percent (50%) of the normal cost expressed as a percentage of payroll as determined by CalPERS.

**C. Deferred Compensation:** The deferred compensation program shall continue to be made available to permanent employees in the General Unit.

**D. Retirement Sick Leave Conversion:** An employee in lieu of cashing out 500 hours of sick leave upon retirement may convert up to 750 hours of their accumulated sick leave to the purchase of individual only health benefits under the County Health Plan.

## SECTION 25 JURY DUTY

It is understood that employees represented by Union shall continue to be covered by the provisions of the Personnel Policies & Practices Resolution dealing with Jury or Witness Duty.

To the extent practicable, the County will attempt to accommodate employees on evening or night shift, who are involuntarily called to jury duty, by temporarily assigning said employee to the day shift; so long as such assignment change does not result in a

significant reduction in service levels, or require the payment of overtime to cover the shift from which the employee was temporarily reassigned.

## SECTION 26 PROBATIONARY PERIOD

### **26.1 Term of Probationary Period**

Upon each appointment to a permanent position, an employee, except as outlined below, shall serve a probationary period of nine (9) months dating from the date of his/her appointment. During the probationary period, an employee has no right to appeal and serves at the pleasure of the Appointing Authority.

#### Emergency Communications Department:

Employees newly hired into the job classifications of Communications Dispatcher I and Communications Dispatcher II, shall serve a one (1) year probationary period. During the one (1) year probationary period, an employee has no right to appeal and serves at the pleasure of the Appointing Authority.

Hours worked for the purposes of calculating the probationary period shall include paid leave time.

#### Office of the Agricultural Commissioner:

Employees hired into the job classifications of Agricultural Inspector Biologist I/II/III and Weights and Measures Inspector I/II/III shall serve a one (1) year probationary period. During the one (1) year probationary period, an employee has no right to appeal and serves at the pleasure of the Appointing Authority.

#### Department of Social Services and Child Services:

Employees covered by merit systems shall be subject to LAPS provisions.

#### Extension of Probationary Period:

Prior to the conclusion of the employee's probationary period and with approval of the County Administrative Office, the Appointing Authority may, for cause, extend the probationary period not to exceed six (6) months upon furnishing the employee with a statement of the reasons for such extension and the standards that must be met in order for the employee to successfully complete the probationary period.

#### Evaluations during Probationary Period:

Nine (9) Month Probationary Period: A minimum of two (2) performance evaluations shall be completed no later than four (4) and eight (8) months after the initial appointment date.

Twelve (12) Month Probationary Period: A minimum of two (2) performance evaluations shall be completed no later than five (5) and ten (10) months after the initial appointment date. An employee who has successfully completed the probationary period will be eligible for advancement to the next higher step in a salary range upon completion of one

(1) year of continuous service in his/her class. If the County Administrative Officer determines that due to administrative or clerical error or omission an employee failed to complete probation or to receive a step advancement on the date on which he/she was otherwise eligible, the employee shall be removed from probation or advanced one step effective on the date he/she became eligible.

### **26.2 Release from Probation in a Promotional Class**

Unless terminated for cause during probation, all provisions of the Probationary Period section of this Agreement apply to probationary employees in a promotional class; with the exception of probationary promoted employees terminated for cause, any employee who does not successfully complete the promotional probationary period shall have the right to return to their former position in the division/unit from which promoted, provided all of the following conditions are met:

- Permanent status in the former classification was obtained prior to promotion
- A vacant position in the employee's prior classification exists
- Employee has not been discharged from promotional probationary period for cause

In the event that there is no vacant position in the division/unit, the employee may elect to follow the procedure outlined in "Reemployment of Employees Laid Off" of this Memorandum of Understanding for placement on a preferred eligible list. An employee electing to pursue placement on a preferred eligible list must notify the Director of his/her Department within five (5) working days of notification that s/he will not be returned to his/her former class.

The decision to place such a released employee on a particular preferred eligible list shall be in the sole, exclusive, and unreviewable discretion of the County. No action taken by the County concerning an employee dismissed while serving a probationary period shall be subject to appeal, review, or to any grievance procedure or arbitration procedure whether such procedure be contained in this Memorandum of Understanding, the Personnel Resolution of the County of Monterey, the Employee Relations Resolution of the County of Monterey, or any other statute, ordinance, resolution or agreement. This article shall not impair the liberty interest rights of any employee.

## **SECTION 27 GRIEVANCE PROCEDURE**

### **27.1 Grievance Defined**

The County and the Union recognize early settlement of grievances is essential to sound worker employer relations. The parties seek to establish a mutually satisfactory method for the resolution of grievances of workers or the Union. There shall be no restraining, interference, coercion, discrimination or reprisal against any employee for exercising any rights under the grievance procedure.

A grievance is defined as a dispute over the interpretation or application of this Memorandum of Understanding by an employee or group of employees 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, Workers' Compensation or discrimination complaints based on age, race, color, religion, sex, national origin, marital status, ancestry, handicap sexual orientation, other legally protected status or the applicable procedures for such complaints;
- C. The exercise of any County rights as specified in this Memorandum, so long as the exercise of such rights does not conflict with other provisions of this 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 or group of employees adversely affected by a grievable matter.

The Union may file a grievance on its own behalf only on those matters which pertain to the rights of the Union as an organization as specified in Union Rights section of this Agreement.

### **27.2 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 Personnel Policies & Practices 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.

### **27.3 No Discrimination**

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

### **27.4 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 or in email.

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.

## **27.5 Grievance Procedure Steps**

### ***Step 1 Discussion with Immediate Supervisor***

**A.** The grievant shall first discuss the grievance informally with his/her immediate supervisor, or in his/her absence, the next level manager. 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. Where mutually agreed by the County and the Union, grievances involving more than one grievant may be filed directly at Step 2.

**B.** Every reasonable effort shall be made to resolve the grievance at this level. The immediate supervisor shall verbally respond to the grievant within five (5) working days of the informal discussion between the grievant and supervisor.

### ***Step 2 Formal Written Grievance***

**A.** In the event the employee believes the grievance has not been satisfactorily resolved, the employee or the union representative shall submit the grievance in writing to the department head within ten (10) working days after receipt of the immediate supervisor's verbal response. One (1) copy of the grievance shall be filed with departmental Human Resources and County Labor Relations. 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 the Memorandum of Understanding, allegedly violated;
3. Indicate the date(s) of the incident(s) grieved;
4. Specify the remedy or solution to the grievance sought by the employee(s);
5. Identify 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 and/or his/her representative with three (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 correction which has been offered, if any, to the grievant.

***Step 3 Human Resources Director / Mediation***

**A.** If a grievance is not settled at Step 2 of the procedure, the grievance may be appealed, in writing to the Human Resources Director or his/her designee within ten (10) working days from the receipt of the department head's or his/her designee's written decision.

Said grievance appeal must specifically set forth the reason the answer(s) previously provided by management is/are not satisfactory.

**B.** The Human Resources Director or his/her designee shall hold a meeting with the grievant within seven (7) working days of the receipt of the appeal.

The Human Resources Director or his/her designee shall deliver his/her written decision within ten (10) working days of the date of the meeting.

**C.** In the event a represented employee chooses to waive a hearing by the Human Resources Director or his/her designee, the Union on behalf of the employee shall, within the ten (10) day appeal period, make a written request to the Human Resources Director or his/her designee to seek within ten (10) working days 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 hearing.

If the grievance is not resolved through mediation, the Human Resources Director or his/her designee shall issue a written decision.

***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 receipt of the Human Resources Director's or his/her designee's written decision.

**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 this contract and that the status quo shall revert to a situation where there is no arbitration of grievances that occur after the expiration date of this agreement until or unless the Board of Supervisors approves a successor agreement.

### **27.6 Notice of Meetings**

The County and the grievant or the grievant's representative shall be responsible for giving notice of meetings and conferences to their representative parties at least twenty-four (24) hours prior to any meeting regarding a grievance whenever possible.

### **27.7 Representation**

**A.** The employee has the right to the assistance of one (1) employee representative/job steward in addition to a staff representative of the Union in the preparation and/or presentation of his/her grievance in Steps 1 through 4 of this procedure provided, however, that supervisory employees shall not represent nonsupervisory employees.

**B.** An employee is also entitled to represent him/herself individually at any step of the grievance procedure, except in the arbitration procedure outlined in this Agreement.

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.

### **27.8 Grievance Withdrawal**

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

### **27.9 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 his/her signature in the appropriate space indicated. If the employee has been represented by the Union at the Step of 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 him/herself shall not be considered precedent setting or binding with regard to any future grievances filed with respect to the same or similar matters.

### **27.10 Consolidation**

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

The Union may file group grievances at the second step of the grievance procedure 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 grievants by listing each

person who claims to be adversely affected, unless the grievance covers the entire bargaining unit(s) and all other data required in this article.

If a grievance involves multiple employees within the same unit/department with the same supervisor, the grievance shall start at step one (1).

### **27.11 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 lost pay for attending any regularly scheduled grievance hearing required by the procedure herein set forth.

**B.** A grievant or a grievant's representative shall notify their supervisor as soon as possible of scheduled grievance hearings and of any changes in the time or date of scheduled hearings in which they must participate.

**C.** In no event shall a grievant be represented by more than one county employee at the grievance hearings. The County shall not incur any cost for Union Shop Stewards to participate as an observer for training purposes, including labor cost. Shop Stewards may request Annual Leave, Floating Holiday, compensatory time, Winter Recess time, or PTO to participate as an observer. Should use of such time result in overtime to the department, use of said time will not be allowed.

**D.** Employees shall suffer no loss of pay for testifying as a witness at a grievance proceeding.

**E.** Grievances may, by mutual agreement, be referred back for further consideration or discussion at a prior step, or be advanced to a higher step of the grievance procedure.

## **SECTION 28 LAYOFF PROCEDURES**

### **28.1 Policy**

The County may layoff 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 Union regarding the effects of any planned reduction in force or layoffs which will affect a department's work force.

The department shall contact the Union and offer to discuss the possible reduction and to invite suggestions for possible cost saving alternatives to layoffs. If alternatives to layoffs are not developed by the time the department determines a layoff should occur, the procedure outlined in Section 26.2 below shall be followed.

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.

## **28.2 Procedure**

Layoffs will be determined within County departments, not the County as a whole. In the event of a reduction in force in a 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 series 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. Layoff shall be by ranking sequence of employees except as otherwise provided herein.

**A. Rank in Class Defined:** 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.

**B. Natividad Medical Center – Temporary Status Option:** 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.

**C. Order of Layoff, Exception to Ranking Sequence:** 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.

**D. Ranking in Previous Class:** A permanent full-time employee may elect to be ranked with 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 of 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.

**E. Demotion in Lieu of Layoff:** In lieu of layoff, the department head may offer a permanent employee a demotion to any class for which the employee is qualified. Employees demoted in lieu of layoff pursuant to this paragraph shall not be eligible for the "Y" rating procedure. An employee who accepts 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 26.4 below.

### **28.3 Notice**

Written notice of layoff shall be served on the affected employees in person or mailed by the United States 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 separation unless delay results from consideration of demotion under the provisions of Section 27.2.4.

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.

### **28.4 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 using a departmental recall list to fill a position in a class from which layoffs have occurred within the one (1) year recall period, the department head shall reemploy laid off employees from the appropriate departmental recall list in inverse order of layoff. During the one (1) year recall period, no new employee shall be hired nor shall any employee be promoted to a class from which layoffs have occurred until all employees on layoff status in that class have had the opportunity to return to work.

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

### **28.5 Status of Employees Reemployed from a Preferred Eligible List**

Employees who are re-employed from a preferred eligible list shall serve a new probationary period, and otherwise be treated as a new employee with the following exceptions:

Former employees who are hired from a preferred eligible list shall be entitled to:

- A.** Placement at the highest step in the class into which they are hired provided that the salary upon rehire does not exceed the salary the employee was receiving at the time of layoff,
- B.** Reinstatement of credit for service time (ranking) as of the date of separation from County service,
- C.** Credit for all prior service for the purpose of determining vacation and sick leave accrual rates, and
- D.** Restoration of any sick leave balance credited to the employee's account on the date of layoff.

### **28.6 Restoration of Benefit for Recalled Employees**

Any employee who has been laid off and is hired 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. For employees who have not 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 credited to the employee's account on the date he was laid off.
- Credit for all prior service for the purpose of determining vacation accrual rates.
- Placement in 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.

### **28.7 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. The above insurance provision does not apply to employees who retire coincidental to their layoff.

### **28.8 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 with seven (7) 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 in effect between the County and the Union. A grievance filed in accordance with this paragraph shall not be subject to the Arbitration provision of the Grievance procedure section of this Agreement.

## **SECTION 29 DISCIPLINE**

### **29.1 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 review, or written reprimand.

### **29.2 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 circumstances 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 Service, 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 identifies 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 521, and the address and telephone number of the union office.

### **29.3 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 28.2 above. This notice shall be delivered to the employee on or as soon after the effective date of the suspension 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 28.2 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 521 with the address and the telephone number of the union office.

#### **29.4 Written Reprimand**

An appointing authority or his/her designee may reprimand an employee by furnishing the employee with a statement, in writing, of the specific reasons for such reprimand. A copy of notice of the reprimand shall be given to the Human Resources Department 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 or 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.

#### **29.5 Disciplinary Review**

An employee may be placed on disciplinary review 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 party neutral to invoke a greater period of disciplinary review.

An employee on disciplinary review shall serve at the pleasure of his/her appointing authority during such review.

In the case of an employee serving disciplinary review, the forfeiture of appeal rights shall extend only to acts or omissions related to the conditions of such disciplinary review.

#### **29.6 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 rights, privileges, and salary while on involuntary leave.

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

### **29.7 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 28.6 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 not 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.

### **29.8 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.

### **29.9 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.

### **29.10 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 for disciplinary action so warrant, an employee may be dismissed.

### **29.11 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 if the employee can show to the satisfaction of the appointing authority that it was impossible to contact the department of employment, provided the employee contacts the department within five (5) working days of notice of separation under this section through United States Mail.

### **29.12 Statute of Limitations**

Any disciplinary action for cause against a county employee shall not be valid unless the notice of disciplinary action is served with one (1) year of the date of 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 the 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.

### **29.13 Appeals from 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.

An employee who is eligible to appeal disciplinary actions under this section, may have other disciplinary appeal procedures available to them such as, but not limited to, the "LAPS" (Local Agency Personnel Standards) disciplinary appeal procedure. In such cases the employee must, at the time of filing of the initial appeal, indicate which appeal procedure he/she is filing under. This designation of appeal procedure at the time of filing shall constitute a binding election of that appeal procedure and an irrevocable waiver and forfeiture of any and all rights of appeal under any other appeal procedure.

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 procedure or the procedures set forth in this Agreement).

Appeals to arbitration shall only be filed by the Union. Failure to appeal within 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.

### **SECTION 30 PERSONNEL RECORDS**

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 and provide a written response for inclusion in the record.

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 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 31 REQUEST OR APPLICATION FOR NEW POSITION**

#### **31.1 Transfers**

The County retains the sole right to transfer employees from one (1) work site to another. Except when an immediate transfer is necessary to meet the requirements of the department, employees shall receive notice five (5) working days prior to the effective date of the transfer.

Employees who desire to be transferred within their respective job classes to a specific work location within their own department may submit a written request for transfer to the appropriate department representative. Such requests filed hereunder shall be retained for a period of one (1) year from date of filing and must be renewed if the employee still

desires to be considered for reassignment beyond that date. Management shall respond to the request for transfer by notifying the employee of the status of their request within ninety (90) calendar days of its receipt.

When Management contemplates filling vacancies and/or openings by transferring employees from one work site or location to a different location, Management will consider the following criteria:

- The overall needs of the department
- Requirements of the job
- Ability to perform job
- The duration and/or permanence of the transfer
- Length of service with the department

### **31.2 Clerical Referral System**

Effective upon implementation by the Human Resources Department, when applying for a position for which referrals are generated through the County Clerical Referral System, an employee may indicate department(s) in which he/she is willing and not willing to work. Once an employee has officially applied for a County Clerical position, has passed the required clerical tests, and his/her application is active in the county clerical referral system, his/her application shall remain active until one of the following conditions is met:

- A. His/her clerical test results expire (currently one year from testing date).
- B. He/she withdraws his/her application.
- C. He/she accepts a permanent county position.
- D. He/she fails to respond to, or to accept, an invitation for a job interview in a department in which he/she has either indicated that he/she is willing to work or in a department for which he/she has not indicated that he/she is not willing to work.
- E. He/she has been referred for four (4) job vacancies in departments in which he/she has indicated that he/she is willing to work or in departments for which he/she has not indicated that he/she is not willing to work.
- F. He/she fails to accept an offer of employment in a department for which he/she has indicated he/she is willing to work or in a department for which he/she has not indicated that he/she is not willing to work.

## **SECTION 32 USE OF VOLUNTEERS**

No volunteer program shall have the effect of displacing any county employee. The County shall meet with the Union to discuss any Countywide volunteer program before implementing such a program.

## **SECTION 33 CONTRACTING OUT**

The County and the Union agree to implement and abide by the provisions of the policy on contracting out which was adopted on March 23, 1982, and any modifications thereto

to which the parties may agree from time to time insofar as it involves work that has previously been performed by employees in the unit. It is further agreed, however, that proposal to contract for work from third parties that involve labor costs of Sixteen Thousand Two Hundred Fifty Dollars (\$16,250) or less or for leases, lease-backs, lease purchases or other facility agreements, work required by law to be contracted out, and continuations of existing contracts are excluded from this section and the County may proceed with such contracts without notifying the Union.

Grievances alleging a violation of this policy shall be filed at step three. The only remedy which may be ordered pursuant to such a grievance is proper compliance with the policy. The Board of Supervisors may proceed without meeting and discussing if circumstances justify urgency action. Advance written notice of six (6) working days of intention to proceed on such a basis shall be given to the Union prior to any Board action; provided nothing herein shall hamper the Board's lawful exercise of authority under state law in emergency situations.

### **SECTION 34 POLYGRAPH EXAMS**

It is agreed that the use of polygraph examinations shall be limited to pre-employment background investigations for any higher-level position and investigations in "Criminal Justice" departments into allegations or charges, which if proven true, may constitute the basis for criminal charges.

No bargaining unit employee shall be required to cooperate with, participate in or submit to any polygraph examinations as a condition of continuing employment except as specified above.

### **SECTION 35 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, any changes in law or circumstances that significantly reduce currently existing or anticipated 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 36 REST and MEAL PERIODS**

**A. Rest Period:** A full-time work day is eight (8) sequential hours of work exclusive of a meal period of at least thirty (30) minutes. There will be a rest period of 15 minutes at approximately each half-shift of more than four hours. A rest period is considered hours worked for pay purposes.



Rest periods may be suspended when unusual emergency conditions require continuous performance of duties in order to protect or preserve life or property.

Rest periods may be suspended for up to five (5) continuous days when short term staffing shortages require continuous work in order to provide essential services; additional suspension of rest periods within thirty (30) days due to staffing shortages requires approval by the Human Resources Director or NMC CEO.

**A.1 Emergency Communications Center:** It is the intent of the Emergency Communications Center to provide breaks to dispatchers.

Dispatchers who are assigned and work a shift of more than four hours and who are denied a break shall be eligible to receive Break Pay Compensation as outlined below:

- Communications Dispatcher I - \$19.50 per shift
- Communications Dispatcher II - \$22.50 per shift

The Emergency Communications Center and SEIU agree to meet prior August 1, 2014 to develop a strategy to provide break relief to dispatchers.

**B. Meal Period:** A meal period is an off-duty time, away from all work assignments. Workers shall be granted a meal period of not less than thirty (30) minutes nor more than sixty (60) minutes. The meal period shall not be compensated time and every attempt shall be made to provide a meal period away from a worker's duties. In the event that this is not possible, the non-exempt workers will be compensated for that time in accordance with Section 11 – Overtime Eligible Employees

## SECTION 37 PERFORMANCE EVALUATIONS

Performance evaluations are used to demonstrate to employees that they are valued; record how an employee's performance meet the requirements of the job; create a job history record; identify employee strengths and areas for enhancement; assist the employee and supervisor in an effort to attain the highest level of performance; and reinforce performance standards. Every effort will be made to include substantiated information within an employee's performance evaluation.

The County shall ensure employee performance evaluations are conducted in accordance with County and departmental policy.

When an employee who does not agree with the overall rating he/she receives on his/her written performance evaluation, he/she shall discuss and attempt to resolve the differences with his/her immediate supervisor.

If discussion with his/her immediate supervisor does not result in resolution of the differences, the employee may file a written request to meet with the next level of management. Said request shall state the unresolved issues and the specific changes in the

written performance evaluation the employee is seeking. The appropriate manager shall meet with the employee to discuss the unresolved issues.

If the issues are not resolved to the employee's satisfaction following discussion with the appropriate manager, the employee may within thirty (30) working days file a written request for a meeting with the department head. Within fourteen (14) working days of receipt of a written request stating the unresolved issues and the desired changes in the written performance evaluation, the department head shall meet with the employee to discuss the issues. Within ten (10) working days of said meeting, the department head shall respond in writing to the employee. The decision of the Department Head shall be final and not subject to the grievance procedure. An employee may submit a written response to his/her evaluation that shall be placed in his/her personnel file.

### **SECTION 38 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 members to initiate, participation, 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 operation of the County. In the event of any such work stoppage by 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 direct 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 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 39 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 40 REQUIRED NOTICE**

In the event Natividad Medical Center anticipates a pending merger, sale, closure, leasing assignment, divestiture, or other transfer of ownership and/or management of its operations in whole or in part, the Union shall be notified in writing sixty (60) days prior to the effective date of such action. The County agrees to arrange a meeting between the successor employer and the Union for the purpose of discussing a smooth transition of operations, employee wages, hours, working conditions, and Union recognition. The County also agrees to provide the Union a list of names and addresses of all Unit member employees.

This Article shall not be subject to the grievance procedure.

#### **SECTION 41 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 the 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 this Memorandum.

Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, 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, alteration, 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's 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.

