

**MEMORANDUM  
OF  
UNDERSTANDING**

**BETWEEN**

**SEIU - LOCAL 535**

**UNIT 22**

**(PROFESSIONAL, PARA-PROFESSIONAL &  
TECHNICAL EMPLOYEES)**

**AND**

**THE COUNTY OF FRESNO**

**OCTOBER 25, 2004 – OCTOBER 30, 2011**

# UNIT 22

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## INTRODUCTION/PURPOSE

We the Undersigned, duly appointed representative of the County of Fresno, hereinafter referred to as "County" and SEIU - Local 535, Unit 22, hereinafter referred to as "Union" having met and conferred in good faith, do hereby jointly prepare and execute the following written Memorandum of Understanding (MOU) for Representation Unit 22. It is the purpose of this MOU to promote and provide for harmonious relations, cooperation, and understanding between management and the employees covered herein.

## RECOGNITION

Pursuant to the provisions of the Fresno County Employee Ordinance, the certification of the Fresno County Civil Service Commission, and appropriate state law, the County hereby recognizes the Union as the exclusive representative of all employees whose classifications have been certified for inclusion by the Fresno County Civil Service Commission in the Unit covered by this MOU, as well as such classifications as may be added to such Unit hereafter by the Civil Service Commission or the Board of Supervisors. Classes deleted from this Unit shall continue to receive the salary for that class as specified herein, but shall otherwise thereafter cease to be subject to this MOU.

## EMPLOYEE APPEALS

When an employee believes he/she has been adversely affected by an action taken by the County, he/she may appeal the consequence, where applicable, through:

1. The Employee Grievance Procedure, when the alleged adverse action is grievable as specified in the procedure;
2. The Civil Service Commission, when the alleged adverse action is appealable, as specified in the Personnel Rules or in Section 3.12.430 of the Employee Relations Ordinance, Unfair Employee Relations Practices - County.
3. Discrimination Complaint Procedure, when the alleged adverse action involves an unlawful discrimination employment practice or act.

## AGENCY SHOP

### 1. Agency Shop

Employees covered by this Memorandum of Understanding (MOU) shall, as a condition of continuing employment, become and remain members of Service Employees International Union Local 535 (SEIU - Local 535) or shall pay to the Union a service fee in lieu of membership dues. Such dues or service fee are as set in accordance with the bylaws of the Union.

2. Implementation of Agency Shop for Employees as of February 12, 2002

The County has provided employees of the County as of February 12, 2002, who occupied a position subject to this MOU, a notice of Agency Shop Provision advising the employee that an election has resulted in an Agency Shop arrangement requiring that all employees in positions subject to this MOU must either join the Union or pay a service fee in lieu of membership dues to the Union unless the employee claims a religious exemption as described in paragraph 4 below. It is agreed that such employees shall have until March 12, 2002 to fully execute the Notice of Agency Shop Provision Form and return it to the County. In the event any such employee fails to properly complete and return the Notice of Agency Shop Provision Form, the County shall deduct the service fee established by the Union for the pay period of March 18, 2002 (current dues paying members will remain as dues paying members).

3. Implementation of the Agency Shop for Employees Hired into Unit 22 after February 12, 2002

Any employee hired by the County in a position subject to this MOU shall be provided, by the County, with a Notice of Agency Shop Provision Form during their first pay period of employment (e.g. New Employee Orientation) advising the employee of the agency shop agreement with the Union and of the requirement that all employees subject to the MOU must either join the Union or pay a service fee in lieu of membership dues to the Union unless the employee claims a religious exemption as described in paragraph 4 below. The County shall automatically deduct the service fee established by the Union the first pay period following the date of hire, unless the employee has provided a dues deduction form electing membership in the Union, or the employee has provided verification of the religious exemption, as described in paragraph 4 below. If the employee has not properly completed the authorization form of his/her choice and returned said form to the County within 30 days of the date of hire, the County shall continue to automatically deduct the service fee and thereafter until such time as the Notice of Agency Shop Provision Form is properly completed and returned to the County.

4. Religious Exemption

Any employee of the County subject to this MOU who wishes to request religious exemption, consistent with State and Federal law, must file such request with the Union. The employee will have a deduction from their pay of an amount, equal to the monthly fair share service fee, to be paid to a non-religious, non-labor charitable fund selected from the list below. The religious Exemption Form is available from the Union only.

For purposes of this section, charitable deduction means a contribution to either: 1) Friends of the Library, 2) Marjorie Mason, or 3) any other non-religious, non-labor charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of the employee's choice.

5. Financial Reports

SEIU - Local 535 shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the Department of Personnel Services, Employee Relations Division once annually. Copies of such reports shall be available to employees subject to the agency shop requirement of this MOU at the Union Office.

6. Payroll Deductions and Dues/Fees Remittance

The County shall deduct from the pay of each employee in a position subject to this MOU Union dues or an amount equal to the service fee established by the Union or religious exemption fee, and shall mail all said deductions to the Union no later than the end of the month after which said amounts were deducted.

7. Indemnification

SEIU - Local 535 shall indemnify, defend and hold the County, its officers, agents and employees harmless from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which may be imposed upon them relating to the County's compliance with the agency fee obligation including claims relating to the Union's use of the monies collected under these provisions.

8. Waiver of Election for Newly Represented Employees and New Representation Units

The addition of classifications and/or employees to the bargaining unit in this MOU shall not require an election herein for the application of this agency shop provision to such classification and/or employees.

MEETINGS WITHIN THE SCOPE OF REPRESENTATION

When the Union wishes to be represented by a County employee, rather than a non-employee representative, at meetings within the scope of representation which affect the representation unit, that employee will have release time with prior department head approval for presentations to County Boards, Committees, and Commissions, and for meetings with management at the departmental and County-wide level. The Union representative will submit a written request to the department head at least twenty-four (24) hours prior to the scheduled meeting unless waived by mutual agreement. Reasonable time off will be approved if it does not interfere with the performance of County services as determined by the department head.

REPRESENTATIVE ACCESS

Authorized Union representatives will be granted access to work locations with the approval of the appropriate management representative for the purpose of conducting grievance investigations and observing working conditions.

To gain such access, Union representatives shall obtain permission from the department head or designee sufficiently in advance as determined by the department head or designee. Once access permission is granted and the representative arrives, the representative shall confine activity specifically to the stated reason for requesting access.

## SALARIES

Salaries for all classifications included in this Unit shall be as specified in Addendum No. 1.

## DIRECT DEPOSIT OF PAYROLL CHECKS

The County and the Union agree that all paychecks of employees shall be directly deposited by the Auditor-Controller in a financial institution of the employee's choice which does not charge the County any fee(s) for such service.

In the event an employee declines or fails to designate a financial institution to receive deposit of their paycheck, such employee's paycheck shall be deposited in an account established for their use at the Fresno County Federal Credit Union, and such deposit procedure shall continue unless and until another financial institution has been designated by the employee on the appropriate form and forwarded to the Department of Personnel Services.

In the event that the financial institution designated by the employee to receive their paycheck commences to charge a fee to the County of Fresno for such deposit service, the County shall notify the employee of the effective date of such proposed fee, when such information is available to the County, and the employee shall decide to either: 1) continue the designation of that institution and pay the fee required by the financial institution; or 2) designate another institution which does not charge such fees to receive the employee's paycheck; or 3) make no designation and have the paycheck processed in accordance with the provisions above.

Employees electing options 1 or 2 shall complete the appropriate designation form and forward it to the Department of Personnel Services one (1) week in advance of the effective date of such fees.

## BULLETIN BOARDS

The County shall provide space for and permit the installation of Union bulletin boards (or provide reasonable space on County bulletin boards) for official Union notices at each central work location. Such bulletin boards shall be maintained in accord with provisions of the County Employee Relations Ordinance.

No such bulletin boards shall be located in areas frequented by the public doing business with the County as determined by the County.

## MANAGEMENT RIGHTS

- A. All County rights, powers, functions, and authorities except as expressly abridged by this MOU shall remain vested in the County whether or not they have been exercised in the past.
- B. No portion of this County Management Rights article shall be construed to obligate the County in any way.

- C. All decisions made in accordance with County Management Rights, which are established in this article or are inherently existent, shall not be subject to any aspect of the grievance procedure or unfair employee relations practice charges.
- D. This article is not intended to nor may it be construed to modify the provisions of the Charter relating to Civil Service or personnel administration. The Civil Service Commission shall continue to exercise authority delegated to it.
- E. This article is not intended to modify those rights which have been granted to employees in this MOU following procedures specified in Government Code Sections 3500 et seq.
- F. In the exercise of its rights, the County shall not require an employee to perform an act or acts contrary to licensing law.
- G. This article is not intended to restrict consultation with the Union at the request of the latter regarding matters within the right of the County to determine.
- H. The rights, powers, and authorities of the County include, but are not limited to, the sole and exclusive right to:
  - 1. determine the mission of its constituent departments, commissions, boards, and committees;
  - 2. set standards of services and evaluate the County's effectiveness in delivery of these services;
  - 3. determine the procedures and standards for employee selection, promotion, demotion, transfer reassignment and/or layoff;
  - 4. select, train, direct, assign, demote, promote, layoff, dismiss its employees;
  - 5. communicate fully and openly with its employees on any subject at any time orally, in writing, both at work or through the U.S. mail;
  - 6. take disciplinary actions;
  - 7. relieve its employees from duty or reassign employees because of lack of work or for other reasons the County considers legitimate;
  - 8. evaluate and maintain the efficiency of County operations;
  - 9. determine and change the method, means, personnel, and standards by which County operations are to be conducted;
  - 10. determine the content of job classifications;



11. take all necessary actions to carry out its mission in emergencies including the suspension of portions or all of this MOU for the period of emergency as determined by the County;
12. exercise complete control and discretion over its organization and the technology to perform its work;
13. make rules and regulations pertaining to employees consistent with this MOU;
14. make all financial and budgetary decisions;
15. establish, allocate, schedule, assign, modify, change and discontinue workshifts working hours and workweeks;
16. contract, subcontract, establish, merge, continue or discontinue any function or operation of the County;
17. engage consultants for any future or existing function or operation of the County;
18. order overtime.

#### ANNUAL LEAVE

All existing employees covered by this MOU currently in the Vacation and Sick Leave Plan (established December 14, 1998) shall have any existing balances converted to the Annual Leave II Plan.

All existing employees covered by this MOU currently in the Vacation and Sick Leave Plan (established December 14, 1998) and the Annual Leave II Plan shall be subject to the provisions of Salary Resolution Section 600 Annual Leave II with the following exceptions:

1. Employees will be allowed to accrue Annual Leave II to a maximum of 550 hours. There shall be no accrual of Annual Leave II beyond 550 hours. (Effective October 20, 2008, employees will be allowed to accrue Annual Leave II to a maximum of 600 hours. There shall be no accrual of Annual Leave II beyond 600 hours.)
2. At the point of conversion, employees with Annual Leave II or combined Vacation and Sick Leave hours in excess of 120.00 hours will have the option to designate those hours in excess of 120.00 to be transferred to the Time Off Bank (TOB) upon implementation of this article. This designation will be a one-time only election and will be irrevocable upon execution. TOB hours will have no cash value, but may be used at anytime for either vacation or sick leave purposes.
3. Upon termination of County employment, any remaining TOB will be converted to retirement service credit.

4. Annual Leave II hours will be paid at 100% of the current hourly rate upon separation.
5. Salary Resolution Section 610.7 is no longer available for employees covered by this MOU (including employees currently in the New Annual Leave Plan).
6. All applicable sections of the Salary Resolution and MOUs will be modified to delete the Vacation and Sick Leave Program references and any other sections determined to no longer be applicable.
7. All employees hired after the conversion will be eligible for the Annual Leave II plan.
8. This conversion requires modifications to existing computer programs of the County, therefore, the conversion shall not become effective until the beginning of the payroll period following the completion of such modifications.
9. Upon ratification of the Memorandum of Understanding by both parties, SEIU Local 535 shall cause that certain lawsuit known as ANN BENNETT; GERALD A. GALLAGHER; THOMAS GATTIE; DOLORES MEDINA; SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 535, AFL-CIO, FRESNO DEPUTY SHERIFF'S ASSOCIATION, Plaintiffs and Petitioners, v. COUNTY OF FRESNO; BOARD OF SUPERVISORS, COUNTY OF FRESNO; GARY PETERSON, AUDITOR/CONTROLLER, COUNTY OF FRESNO; SUPERIOR COURT, COUNTY OF FRESNO, Defendants and Respondents, Fresno County Superior Court Case No. 01 CE CG 01042, to be dismissed with prejudice in its entirety as to plaintiff Service Employees International Union, Local 535, AFL-CIO.

#### BEREAVEMENT LEAVE

Bereavement leave shall be governed by the Fresno County Salary Resolution, Section 600.

#### HOLIDAYS

##### Holidays

The dates listed below which fall within the normal workweek of Monday through Friday shall be considered paid holidays and shall be observed subject to provisions contained in the Salary Resolution:

- January 1 (New Year's Day)
- Third Monday in January (Martin Luther King Jr.'s Birthday)
- Third Monday in February (Washington - Lincoln Day)
- March 31 (Cesar Chavez' Birthday)
- Last Monday in May (Memorial Day)
- July 4 (Independence Day)
- First Monday in September (Labor Day)
- November 11 (Veteran's Day)

Fourth Thursday in November (Thanksgiving Day)

Day following Thanksgiving

December 25 (Christmas)

Every Monday following a Sunday, which falls on January 1, March 31, July 4, November 11, or December 25

Every Friday when such Friday immediately precedes January 1, March 31, July 4, November 11, or December 25

#### Holiday Pay Eligibility

Employees are eligible for holiday pay only if they are at work or on approved annual or sick leave on their last assigned shift immediately before and after the holiday. Employees claiming annual leave for illness purposes or sick leave on their last assigned shift immediately before or after a County holiday as set forth in this MOU may be required by the department head to provide a statement from a California licensed physician setting forth the specifics which necessitated the employee's absence for illness or injury purposes in order to be eligible for holiday pay.

#### Compensation for Time Worked on a Holiday

When employees represented by this Unit are required to work overtime on a holiday as defined herein, the time so worked shall be compensated at the rate of two and one-half (2½) times the employee's base hourly rate of pay for the first eight (8) hours worked and at time and one-half (1½) the employee's base hourly rate of pay for all subsequent hours worked on the holiday. Holiday overtime is not included as Fair Labor Standard Act (FLSA) overtime in the FLSA work period. Holiday overtime can be received in cash or compensatory time off.

In lieu of the two and one-half (2½) time holiday compensation mentioned herein, an employee can choose to receive holiday credit equal to the number of hours worked on a holiday up to eight (8) hours and overtime compensation of time and one-half (1½) for all overtime hours worked on a holiday.

#### Holidays - Part-Time Employees

Employees occupying permanently allocated positions who work eighty percent (80%) or more of a full-time position shall be credited with eight (8) hours of holiday pay; employees occupying permanently allocated positions who work less than eighty percent (80%) of a full-time position shall be credited with four (4) hours of holiday pay.

#### SPECIAL SALARY UPGRADING

Special Salary Upgrades shall be governed by the Fresno County Salary Resolution, Section 413.9, with the exception that Special Salary Upgrading shall start no later than the beginning of the second pay period.

## PRIVATE VEHICLE USAGE

Departments may authorize their department employees to use their private vehicle to travel on business for the County provided that each such employee shall have first complied with County automobile insurance requirements.

In order to be authorized travel by private vehicle, the employee must possess an appropriate valid California driver's license and required insurance with limits of not less than \$100,000/\$300,000 public liability and \$25,000 property damage, or a combined single limit of \$300,000.

Any employee authorized to travel on business for the County and who has been duly authorized to use and does use a privately owned automobile shall be allowed and paid as traveling expense for the actual miles traveled during any calendar month at the rate authorized by the Internal Revenue Service (IRS). Subsequent changes to the IRS rate shall become effective on the pay period following the County's receipt of the published IRS rate.

## REPRESENTATION IN COURT

Subject to all appropriate provisions of California Government Code Sections, the County will upon request of an employee or former employee defend against any class or action for an injury arising out of an act or omission occurring within the scope of employment as an employee of the County and will pay any judgment based thereon or any compromise or settlement of the claim or action to which the County has agreed.

## EMPLOYEE REPRESENTATIVES

The Union may select one (1) employee representative for each department where employees in the Unit are located. Upon request and approval from his/her immediate supervisor, the employee representative will be given reasonable time off to notify the Union's representative of grievances or violations of this MOU.

Employee representatives will not process grievances. The employer agrees that the Union's representative will have immediate access (after notification to the person in charge) to the employee representative and concerned member or members upon receiving a report of a grievance or violation of this MOU. The Union agrees that the Union representative will notify the person in charge immediately upon his/her arrival at the work location.

## CALL-BACK AND STANDBY PAY

### Call-Back Pay

An employee shall be eligible for call-back pay when all of the following conditions are met:

1. The employee is unexpectedly ordered to return to work and does, in fact, return to work.
2. The order to return to work is given following termination of the employee's normal shift and departure from the work location.

3. Such return to work occurs not less than two (2) hours prior to the established starting time of the employee's next shift.

Compensation for call-backs during each twenty-four (24) hour period shall be the greater of:

1. Two (2) hours at the rate of time and one-half (1½); or
2. Time spent at the work location at the rate of time and one-half (1½).

The rate of pay upon which the time and one-half (1½) payment shall be made shall be the employee's base hourly rate of pay, unless the call-back time worked meets the definition of overtime under provisions of the FLSA; in the latter instance, overtime shall, as to non-exempt classifications, be calculated at the rate of one and one-half (1½) times the employee's regular hourly rate of pay, as defined by provisions of the FLSA. The fact that the County may initially calculate overtime based on the regular rate of pay for all overtime hours worked does not obviate the County's future exclusive right to differentiate between overtime rates as set forth herein.

Employees called back, and who meet the criteria for use of private vehicles, shall be reimbursed for mileage driven to and from home at the current reimbursement rate.

#### Standby Pay

Employees who are placed on standby shall be compensated for the standby time at the rate of Twenty Dollars (\$20) for eight (8), nine (9), or ten (10) hours, depending upon normal schedule.

Employees who are placed on standby who receive work-related phone calls at home shall be compensated at time and one half (1½) for time actually spent on the call.

#### NO REDUCTION

It is agreed that no member of Unit 22 by virtue of the adoption of this MOU will suffer a reduction in wages, hours, benefits, and/or working conditions during the term of this MOU; however, nothing in this paragraph shall be construed to limit in any way disciplinary or other actions pursuant to County ordinances or Personnel Rules, or the Salary Resolution.

#### REST PERIODS

Employees shall generally be entitled to two (2) rest periods each work day, not including the normal lunch or dinner break. Rest periods are County-paid time; only during periods of extremely heavy workload and/or staffing shortages as determined by management, rest periods may not be possible.

#### OUT-OF-TOWN EXPENSES

Employees in the Assessor's Office who are required by management to travel out of town for five (5) consecutive workdays shall be paid twenty-five and no/100 dollars (\$25.00), in addition to their authorized travel reimbursement, for each five (5) consecutive workday period spent

out of town. (There shall be no pro-ration of the \$25.00 payment.) Employees shall not be required to submit expense vouchers in order to receive payment of this allowance; the payment shall be made to the employee upon return to Fresno and shall be considered taxable wages for federal, state, and social security purposes and shall be subject to tax withholding.

### HOURS OF WORK

Consistent with Section 500 of the Fresno County Salary Resolution, full-time employees shall normally work a five (5) day, forty (40) hour week, as scheduled by department management. The workday shall normally be eight (8) consecutive hours, plus a one (1) hour lunch period, unless otherwise mutually agreed upon between the Union and the County.

### SENIORITY

Seniority is defined as including all periods of employment in permanent County positions, including time spent on a probationary appointment, but does not include service prior to employment interruptions caused by resignation or dismissal.

### OVERTIME

All employees covered by this MOU shall be paid at the rate of time and one-half (1½) for overtime worked. In determining whether or not overtime hours have been worked, only productive work hours (actual hours worked) shall apply. Time off for a holiday during the pay period in which the holiday occurs shall be considered productive time. Overtime is authorized work performed by employees in excess of eight (8) hours a day or over forty (40) hours in a work week which will be paid at time and one-half (1½) of the employee's base rate of pay unless the overtime meets the definition of overtime under the provisions of FLSA. In the latter instance, overtime shall be calculated at the rate of one and one-half (1½) times the employee's regular rate of pay, as defined by provisions of the FLSA.

Due to the County's current economic constraints, the County and SEIU – Local 535 agree to temporarily encourage all employees covered by this MOU to accrue the maximum amount of compensatory time off (CTO) allowed.

Employees covered by this MOU in the following departments may accrue CTO up to a maximum of sixty (60) hours: Assessor's Office, Human Services System, Library and Public Works & Planning. Employees who are in positions classified as Investigators are also eligible to accrue CTO up to a maximum of sixty (60) hours. Employees in the Coroner/Public Administrator-Public Guardian's Office may accrue CTO up to a maximum of twenty-four (24) hours. Employees may request to be paid in cash at anytime for accrued hours. Use of CTO shall be at a time mutually agreed upon by the employee and department head or his/her representative. CTO balances may be paid off annually in cash at a time selected by the department head at his/her discretion.

The CTO accrual maximums referenced above will decrease to the following amounts effective the last pay period prior to the expiration of this MOU:

Twenty-four (24) hours for employees in the Human Services System, Library or Public Works & Planning, and forty (40) hours for employees in the Assessor's Office and Investigators. Those employees who have CTO balances in excess of twenty-four (24) hours, or forty (40) hours for employees in the Assessor's Office and Investigators, shall not be eligible to accrue additional hours until such time as his/her CTO balance falls below twenty-four (24) hours or forty (40) hours.

Effective the last pay period prior to the expiration of this MOU, employees in the Coroner/Public Administrator-Public Guardian's Office will no longer be eligible to accrue CTO hours.

Should employees of this Unit be scheduled by management to work more than seven (7) consecutive work days, commencing on the eighth (8<sup>th</sup>) day, the employee will be compensated at two (2) times his/her base hourly rate for each hour worked until such time as two (2) consecutive days off are received. This payment shall only apply when the employee has been scheduled by management and ordered to work more than seven (7) consecutive work days, and does not apply when the work is as a result of the employee volunteering.

To clarify which employees are volunteers, each current employee shall be provided a form upon which to waive eighth (8<sup>th</sup>) day overtime eligibility. Employees may either complete the form, thereby indicating waiver or discard it. Employees who return the form shall not be entitled to double-time pay for the eighth (8<sup>th</sup>) consecutive day worked nor days thereafter. Employees may rescind such waiver in writing prior to their scheduled shift.

Within sixty (60) days of the approval of this MOU, the parties agree to meet and confer regarding pay provisions for employees who perform election duties as assigned by the County Clerk/Registrar of Voters.

#### UNSCHEDULED ABSENCES

The County and the Union agree that employees who are excessively absent and/or tardy present a hardship to both management and their fellow workers. If abuses continue, the department head is encouraged to take whatever disciplinary action is necessary to resolve the problem, consistent with procedures within the Personnel Rules.

#### BUSINESS CARDS

It is agreed the County will provide (at no cost) business cards to all employees, where deemed appropriate by management.

#### VOLUNTARY WORK HOURS REDUCTION PROGRAMS

If layoffs are to occur in any classification in this Unit, the County and the Union agree to meet and confer regarding voluntary departmental work-hour reduction programs as an alternative to those layoffs.

## SHIFT PREMIUM

The regular day shift will consist of eight (8) working hours between 5:00 a.m. and 7:00 p.m. as scheduled by the department head. There shall be no shift premium payment applied to any regular day shift hours as defined herein. Any employee whose regular work hours begin and conclude between 7:00 a.m. and 5:00 p.m. shall not receive shift premium pay for overtime worked which extends the workday past 5:00 p.m. Employees working a flexible work schedule shall not be eligible for shift differential.

Whenever an employee who by assignment or by rotation works a regular shift, any portion of which occurs between the hours of 5:00 p.m. and 7:00 a.m., the employee shall be paid, in addition to the basic compensation, an eight percent (8%) premium for all work hours which occur after 5:00 p.m. and before 7:00 a.m.

Whenever an employee who is eligible for shift premium is required to perform overtime work between the hours of 5:00 p.m. and 7:00 a.m., such employee's basic compensation plus the shift differential will be used in determining any cash payment for overtime hours worked.

### Library Employees

Any employee whose regular work hours begin and conclude between 7:00 a.m. and 6:00 p.m. shall not receive shift premium pay for overtime worked which extends the workday past 6:00 p.m. Employees working a flexible work schedule which extends into the above-stated hours shall not be eligible for shift differential.

Whenever an employee who by assignment or by rotation works a regular shift, any portion of which occurs between the hours of 6:00 p.m. and 9:00 p.m., the employee shall be paid, in addition to the basic compensation, an eight percent (8%) premium for all work hours which occur after 6:00 p.m. and before 9:00 p.m. Employees shall not receive such compensation while on Annual Leave, sick leave and holidays.

Whenever an employee who is eligible for shift premium is required to perform overtime work between the hours of 6:00 p.m. and 9:00 p.m., such employee's basic compensation plus the shift differential will be used in determining any cash payment for overtime hours worked.

When an employee who is regularly scheduled for night shift is temporarily moved to another shift for the convenience of the department, the usual shift differential will continue to be paid through the period when temporarily reassigned. For this purpose, temporary reassignment is any reassignment made with the expectation that the employee will return to the assigned shift.

## BILINGUAL SKILL PAY

Effective no later than July 8, 2002, an employee occupying a position that is authorized by the County Administrative Officer, or his/her designee, to receive Bilingual Skill Pay shall be eligible to receive such pay in the amount of \$23.08 per pay period. Such employee shall receive Bilingual Skill Pay after certification by the Department of Personnel Services.



Effective October 23, 2006 Bilingual Skill Pay will increase from a maximum of \$23.08 per pay period to \$50.00 per pay period (approximately \$108.00 per month).

Bilingual Skill Pay shall not be paid during periods of paid time off (e.g., annual leave, vacation or sick leave); instead, departments may assign these responsibilities to other employees who are certified to receive this pay.

#### Position Designation/Eligibility

1. An employee may be eligible to receive Bilingual Skill Pay after being certified by the Department of Personnel Services and when occupying a permanently allocated position that is designated, by the Department Head or designee, to utilize a bilingual skill(s). Furthermore, the need for the bilingual skill(s) must be identified as crucial due to the nature of services provided. "Crucial due to the nature of services provided" shall be defined as any amount of time deemed necessary by the department in order to meet the needs of the public such as:
  - A direct public contact position;
  - An institutional or healthcare setting dealing with inmates or patients; or
  - A position needed to perform interpretation, translation or specialized activities for the department and its clients.
2. In addition to 1, the position must also be authorized by the County Administrative Officer, or his/her designee, for Bilingual Skill Pay.
3. Where organizationally feasible, departments should ensure that positions clearly meet the standards by centralizing the bilingual responsibility in as few positions as possible.

#### Bilingual Proficiency Examinations and Certification Process

1. Bilingual proficiency examinations and certification will be administered by the Department of Personnel Services.
2. Bilingual proficiency exams will be conducted using an oral board panel consisting of a minimum of two (2) persons. Panel members may be County or non-County employees and/or members of the community. Panel members shall not be in the same bargaining unit as the examinee. The Department of Personnel Services shall make a reasonable attempt to utilize panel members not in the same department as the examinee.
3. Departments may submit, to the Department of Personnel Services, languages identified for testing upon meeting the criteria in C.1. above. After initial implementation of the exam and certification process, periodic bilingual proficiency exams will be scheduled.
4. Employees may submit Bilingual Certification Applications to be scheduled for bilingual proficiency exams directly to the Department of Personnel Services, Employment Services Division. Application deadlines shall not be appealable or grievable.

5. Upon passing a bilingual proficiency exam, the employee shall be certified in that language(s) and will not be required to retest unless they have a break in County employment.
6. Employees that have been certified as bilingual proficient by the Department of Personnel Services shall not be eligible to receive Bilingual Skill Pay unless the requirements of Section C above are met.

This shall also apply to those employees that have successfully passed a bilingual proficiency exam administered by their department as a condition of employment. For an employee to qualify for a testing waiver and be certified, authorized department representatives shall submit to the Department of Personnel Services, an employee's name, language(s) tested, and any other information necessary for efficient administration of the program. These employees shall not be required to retest through the bilingual proficiency exam process established with this agreement, but shall be considered as already certified.

7. Appeal Process:
  - 1<sup>st</sup> examination failure – employee may request to be re-tested by a new panel. The employee must submit a written request to the Department of Personnel Services within 10 working days of the date of the notification of failure. Personnel Services will have 30 working days, or longer if mutually agreed, to schedule a re-test.
  - Subsequent examination failure – upon an employee's second failure, the employee must wait until the next regularly scheduled examination period to apply for a bilingual proficiency exam.

#### BENCHMARK CLASSIFICATION SALARY SURVEY

The County agrees to conduct a 13 County (listed below) Salary Survey of all benchmark experienced level classifications represented by SEIU – Local 535, excluding bargaining Unit 36, Supervisory classifications. The survey shall also include the City of Fresno and the State of California. (With respect to Unit 36, the County will include those supervisory classifications whose benchmark classifications are not represented by SEIU – Local 535).

The parties agree to meet and confer over equity adjustments upon completion of the Survey but no later than March 31, 2008. The parties further agree to meet and confer on an individual bargaining unit basis (no coalition bargaining). Any salary equity adjustments agreed to would become effective with the 2008/2009 Fiscal Year. In no event shall any equity adjustments agreed to become effective retroactively.

The parties agree to meet just prior to the commencement of the survey to discuss methodology, specific concerns and perspectives.

The following 13 Counties shall be included in the Salary Survey:

- Contra Costa \*
- Kern \*
- Kings
- Madera
- Merced
- Riverside \*
- Sacramento \*
- San Joaquin \*
- San Mateo \*
- Santa Barbara \*
- Stanislaus
- Tulare
- Ventura \*

\* Traditional Eight (8) County survey.

#### CONTINUITY OF OPERATIONS

Continuous and uninterrupted service to the citizens of the County, and orderly employee/employer relations between the County and its employees are essential considerations of this MOU. Therefore, the Union agrees on behalf of itself and those County employees which it represents, both individually and collectively, that there shall not be any job actions such as strikes, picketing, boycotting, work stoppages, sitdowns, sickouts, speed-ups, slow-downs, or secondary action such as refusal to cross picket lines or any other concerted refusal to render services or to obstruct the efficient operations of the County or refusal to work, including refusal to work overtime, or any other curtailment or restriction of work at any time.

In the event the County determines there to be a violation of this article by the Union and/or the employees which it represents, the employer may, in addition to other remedies, discipline such employees up to and including discharge.

The County shall not utilize a lock-out technique in its employee/employer relationships.

#### COMPUTER PROGRAMMING MODIFICATIONS

Notwithstanding any language in this MOU to the contrary, the respective articles of this MOU which will involve modifications to existing computer programs of the County shall not become effective until the beginning of the payroll period following the completion of such modifications provided; however, that in making the various computer program modifications involved herein priority will be given to overtime and health insurance changes. Furthermore, the provisions of this article shall not be used to extend the effective date of salary changes.

## EMPLOYEE BENEFITS

The parties agree that employees covered by this MOU shall have made available to them the same holidays, vacation, sick leave, health insurance, life insurance, dental insurance, unemployment insurance, disability insurance, and mileage reimbursement as are generally provided to all other bargaining units.

## MOU - PRINTING AND DISTRIBUTING

The County agrees to print twenty-five (25) copies of this MOU for the Union.

Any distribution of this MOU by the Union shall not interfere with County operations as determined by management.

## TRAVEL

The County agrees to meet and confer with the Union regarding the impact of any changes to the County Travel Policy affecting the members of this Unit.

## FLEXIBLE SPENDING ACCOUNT

The County agrees to continue a "Flexible Spending Account" consistent with the parties' sideletter agreement effective December 10, 1990.

## COURT APPEARANCES

All employees covered by this MOU shall receive full compensation as though they were performing their regular duties during such time as they are required to appear as a witness before the Fresno County Grand Jury, or before any court as:

1. A Juror;
2. Witness in a criminal case;
3. Witness in a civil case for the purpose of giving testimony as to facts related to or the knowledge of which they have received in the course of their County employment;
4. A party to an action arising out of the course of County employment.

They shall claim any jury, witness, or other fee to which they may be entitled by reason of such appearance and forthwith pay the same over to the Auditor-Controller to be deposited in the appropriate fund of the County.

Employees covered by this MOU shall not be compensated for performing as a member of any Grand Jury.

Whenever practicable, as determined by management, employees called for Jury duty will be assigned to a day shift schedule.

## DAMAGE TO PERSONAL PROPERTY OF EMPLOYEE

### County May Provide Payment

Pursuant to Government Code Section 53240, the County may provide for the payment of the costs of replacement or repair of property or prosthesis of an employee, such as eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by the employee, when such items are lost or damaged in the line of duty without fault of the employee.

### Eligibility

Damage to items being claimed must occur without fault of the employee and while the employee is on official County business. All claims must be verified and approved by the employee's department head.

### Procedure

All claims for reimbursement must be submitted to the Auditor-Controller within thirty (30) days after damage was incurred.

- A. All receipts, invoices, and estimates of repair or value must be attached to claim when submitted.
- B. Estimates of value or repair must be made by a dealer or authorized repairperson of the items being claimed and not by the employee.
- C. If the items are damaged beyond repair, or if the cost of repair exceeds the estimated value, reimbursement shall be made on the value of the items at the time the damage occurred.

### Auditor-Controller/Treasurer-Tax Collector's Responsibility

All claims for lost or damaged property shall be submitted by the department head to the Auditor-Controller. If the claim is under three-hundred and no/100 dollars (\$300.00), the Auditor-Controller will review it, determine if reimbursement should be made, and the amount of reimbursement. If the claim is three-hundred and no/100 dollars (\$300.00) or more, the Auditor-Controller will review the claim and present it to the Board of Supervisors together with a recommendation on the amount to be reimbursed, if any. The claimant will be notified of the time and date the matter will be presented to the Board of Supervisors.

### Appeal Procedure

The department head may appeal the Auditor-Controller's decision by requesting the Auditor-Controller to present the claim to the Board of Supervisors. The Auditor-Controller will process the appeal as a consent item on the Board of Supervisors Agenda. Decisions of the Board of Supervisors are final.

### LIFE INSURANCE

The County agrees to offer term life insurance at the option of individual employees. Such insurance is to be paid for by the employee opting to receive this insurance and shall be subject to provisions as established by the County and the insurance carrier.

### FAIR LABOR STANDARDS ACT

If, during the course of this MOU, legislation or a court decision makes the provisions of the FLSA no longer applicable to the County, the parties hereby agree that the FLSA provisions of this MOU shall terminate and no longer be applicable.

### MEETING SPACE

The County shall reasonably make available conference rooms and other meeting areas for the purpose of holding Union meetings during off-duty time periods. The Union shall provide timely advance notice (24 hours) of such meetings. The Union also agrees to pay any additional cost of security, supervision, damage and cleanup, and shall comply with the County regulations for assignment and use of such facilities.

### FLEXIBLE WORKWEEK

At the request of either the County or the Union, the parties agree to meet and confer on flexible workweek/day arrangements.

The County of Fresno and SEIU – Local 535 agree to hold an interest-based bargaining session within sixty (60) days of the approval of the MOU. The purpose of the session will be to explore the mutual benefits of implementing flexible schedules for employees assigned to Child Protective Services, as well as employees in the Eligibility Worker and Appraiser classification series.

### TRANSFER OF COUNTY FUNCTIONS

When advanced knowledge of the impact of pending changes in function, organization, or operations is available which will result in the abolition of positions, or when there is any major reassignment of functions from one department to another or to another agency, within the scope of the Personnel Rules, management will make an intensive effort to either reassign or transfer affected employees to other positions in order to retain their services.

In the event the County enters into any agreement with another public employer or private entity which involves the transfer of functions now being performed by employees in this representation unit, or the law provides for the transfer of functions now being performed by employees in this Unit to another public or private agency, the County will advise such public or private entity of the existence and terms of this MOU, and will immediately advise the Union of such agreement or law. It is mutually understood and agreed that such notification is simply for informational purposes and shall in no way be construed as obligating the new employer to

recognize the Union as a bargaining agent for its employees; and that the intent of this notification is not to require that the new employer abide by terms of this MOU, but rather as an assistance in apprising the new employer of working conditions which have been in effect with the County.

### ON-THE-JOB INJURIES/HEALTH PLAN PREMIUMS

Employees who are seriously injured; or who become ill; or who are exposed to toxic materials; any of which are as a result of an incident or exposure on the job which causes need for medical treatment and who cannot return to work, as verified by a California Licensed Physician's statement, on the day such incident or exposure occurs, shall receive their full normal compensation for that day as though they had continued to work. There shall be no required use of annual or sick leave time for such day. Under conditions set forth below, the County will continue to pay the County contribution toward the employee's health insurance for up to fifteen (15) full pay periods. The Health Benefit Plan employee-only contribution will be paid when all of the following conditions have been met:

1. The employee is on an approved medical leave of absence under provisions of County Personnel Rule 7;
2. The medical leave of absence is a result of a bona fide on-the-job injury or illness;
3. The employee has exhausted all accrued paid time off including, but not limited to, Annual Leave, sick leave, and compensatory time off;
4. The employee has not been released by the attending physician to return to duty on a full or part-time basis.

The employee will assume full responsibility for payment of the employee-only premium at the beginning of the sixteenth (16<sup>th</sup>) pay period of a medical leave of absence due to an on-the-job injury or illness. The employee retains full responsibility for payment of Health Benefit Plan premiums for any continued dependent coverage regardless.

### PERSONNEL RULES AND SALARY RESOLUTION

Copies of the Fresno County Personnel Rules and Salary Resolution Manuals shall be available for employees' reference in each County department and at the central branch of the County Library. These documents may also be reviewed at the Labor Relations Division.

### PERSONNEL FILES

The employee's personnel file is strictly confidential. Without their written permission, only Personnel, and other employment-related persons shall have access to the file, and then only for their work-related use.

No detrimental material will be placed in the employee's file unless it has first been discussed with the employee and the employee has an opportunity to respond. A copy of such material will be provided to the employee. The response of the employee will also be placed in the personnel file and remain there as long as the detrimental material remains in the file.

Employees, or their representative with written permission, shall have access to their own personnel file and be entitled to copies of anything therein except letters of reference.

### PERFORMANCE EVALUATIONS

Performance evaluations shall be governed by the Fresno County Personnel Rules, Rule 13.

Remedy For Employee Dissatisfied With Evaluation: An employee dissatisfied with his or her performance evaluation and wishing to supplement the evaluation with written comments may do so. The written comments must be signed, dated and submitted to the employee's supervisor within ten (10) working days of the employee's receipt of the evaluation. In addition, the written comments must identify the areas of disagreement and include a request to meet with the reviewer. The reviewer shall hold a meeting with the employee to discuss the employee's concerns within ten (10) working days from receipt of the written comments. Both the employee's written comments and the reviewer's written response become a part of the employee evaluation document and a permanent part of the employee's personnel record. There shall be no appeal or other remedy available to the employee.

### SAFETY AND HEALTH

Pursuant to California Labor Code Section 10.6401.7, and Fresno County Management Directive 1600, County departments will maintain an Injury Illness Prevention Program relative to individual division/unit operations. It is the duty of management and employees to make reasonable efforts to provide and maintain a safe and healthy place of employment and adhere to established safety policies and procedures and report hazards accordingly.

### DETENTION FACILITY DIFFERENTIAL

Employees of this Unit who are assigned to a County detention facility shall be paid five and 00/100 dollars (\$5.00) per day differential when four (4) or more hours are spent in one of these facilities. Employees assigned for less than four (4) hours per day shall be paid the above differential on a pro-rated basis at \$.625 per hour.

The differential shall continue for employees permanently assigned to the specified facilities during periods of vacations, sickness, and temporary reassignments for the convenience of management, for training or other purposes for periods of one (1) month or less.

When a permanent employee is temporarily reassigned for a period of one (1) month or more, no differential shall be paid.

Differential payments are not included in Annual Leave payoffs.



## DISABILITY INSURANCE

Employees of this Unit shall participate in the State Disability Insurance Program. Such insurance shall be paid for by the employee and shall be subject to provisions as established by the County and the State of California.

## DISCIPLINARY ACTION

Employees facing disciplinary action as defined by the Fresno County Personnel Rules implementing either disciplinary suspension, administrative salary reduction, disciplinary demotion or dismissal, may elect to be accompanied by a representative of their choosing at any administrative proceeding conducted prior to the imposition of such discipline.

## UNIFORMS - HEALTH SERVICES AGENCY EMPLOYEES

Employees may, at the discretion of the department head, be required to wear specified uniforms.

If so required, and the uniform consists solely of a specified shirt, the County shall pay each employee forty and no/100 dollars (\$40.00) during the month of October for the yearly purchase and maintenance of such shirts. This provision shall not apply if the County utilizes the provision below.

Employees not previously covered under a uniform provision shall be issued initial sets of specified uniforms. New employees will be issued uniforms when hired.

Employees subject to this article, as determined by the department head, shall be required to wear the specified uniform in a clean, presentable condition.

If possible, as determined by the County, uniform maintenance will be provided.

Identifying patches for uniforms will be provided by the County as required.

## CONTINUING EDUCATION – HUMAN SERVICES SYSTEM EMPLOYEES

Employees in classifications represented by this Unit who, during the term of this MOU, are required to attend continuing education courses, seminars, etc., as a requisite for retention of a license, certification or registration which is a condition of continuing County employment, shall be given County-paid time off from their regular work schedule for said attendance.

## REPRESENTATION UNIT MODIFICATION

Consistent with the Employee Relations Ordinance, the parties agree to remove classifications with no membership from Unit 22.

### JOB SHARING

Job sharing arrangements may be requested by employees covered by this Unit through their department if such arrangements are operationally feasible, as determined by the department head. Such arrangements, if agreed to by the department head, would be consistent with the Fresno County Salary Resolution provisions and the terms specified in a job sharing agreement which the employee would be required to sign.

### SAVINGS CLAUSE

The provisions of this MOU are declared to be severable and if any section, subsection, sentence, clause, or phrase of this MOU shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this MOU, but they shall remain in effect, it being the intent of the parties that this MOU shall stand notwithstanding the invalidity of any part. Should any portion of this MOU be found invalid or unconstitutional the parties will meet and confer to arrive at a mutually satisfactory replacement for the portion found to be invalid or unconstitutional.

### FULL UNDERSTANDING

It is intended that this MOU set forth the full and entire understanding of the parties regarding the matters set forth herein, and any other previous understandings or agreements by the parties (with the exception of addendum and sideletter agreements), whether formal or informal, regarding any such matters are hereby superseded and terminated in their entirety. With respect to addendum and sideletter agreements, all previously existing addendum and sideletter agreements that have not expired, and new addendum and sideletter agreements entered into during the term of this MOU shall continue in force subject to the terms and conditions set forth within each. Further, neither party shall be bound by any promise or assurance that is not explicitly covered in this MOU, addendum, or sideletter agreement signed by both parties.

This MOU shall govern in case of conflict with provisions of existing County ordinances, rules, and regulations pertaining to wages, hours, and other terms and conditions of employment, but otherwise such ordinances, rules, and regulations shall be effective and the Board of Supervisors and other County boards and commissions retain the power to legislate pertaining to such matters subject to compliance with the Meyers-Milias-Brown Act and other applicable provisions of law provided such actions are not in conflict with the provisions of this MOU.

### WEINGARTEN RIGHTS

The County and SEIU 535 agree that it is in the best interest of both parties and the best interest of the County employees that all employees be informed of these rights.

The County agrees that every employee who is subject to an administrative investigatory interview by management will be given a copy of their Weingarten Rights and a form to

indicate if he/she wishes to invoke his/her Weingarten Rights. The employee will be given time to read the form and mark if he/she wishes to have a representative in the meeting. The employee will then sign the form and be given a copy of the signed form.

SEIU 535 and the County to mutually agree on the form.

This article shall not be grievable or appealable, except for the employee's right to appeal if their Weingarten Rights are violated.

#### UNION LABEL

The County agrees that any employee covered by this MOU will have the right to wear on their person and/or display in their workstation their Union affiliation. This includes buttons, lapel pins and pens, unless doing so is contrary to the Fresno County Employee Relations Ordinance or a department policy/procedure.

#### MEET AND CONFER REQUIREMENTS

California Government Code, Section 3500 (The Meyers-Milias-Brown Act), is attached as an addendum to this MOU.

#### NOTICE OF PROMOTIONAL OPPORTUNITIES

Employees who have authorized access to the Fresno County e-mail system will be sent bi-weekly updates regarding pending promotional opportunities from the Department of Personnel Services. The opportunities will be limited to open, departmental promotional and general promotional recruitments. All departmental internal suspension of competition recruitments will continue to be conducted pursuant to Personnel Rule 4310.6.

#### APPLICATIONS AND FORMS

Fresno County applications and forms related to employment opportunities will be made available through the County Intranet System. Employees may submit application materials to the Department of Personnel Services via the Fresno County e-mail system. The employee will be allowed to show e-mail documentation that the application materials were sent by the final filing date and time.

This Article does not apply to internal, departmental suspension of competition recruitments, which will be conducted pursuant to Personnel Rule 4310.6.

This Article shall not be grievable.

#### EMPLOYEE ASSISTANCE PROGRAM

The County and SEIU – Local 535 agree that within 30 days of the adoption of the MOU, representatives of the County and SEIU – Local 535 agree to meet to discuss Fresno County's Employee Assistance Program.

## HEPATITIS VACCINATIONS

The County Health Officer shall review the classifications covered by this MOU and make a recommendation as to the benefit of having hepatitis vaccinations provided to employees within designated classifications.

This review and recommendation shall be completed within six (6) months from the approval of this MOU. A copy of the recommendation will be provided to SEIU – Local 535.

## CHILD CARE FACILITY

The County agrees to continue exploring the possibility of creating a child care facility for use by County employees.

## USE OF COUNTY MAIL SYSTEM

SEIU – Local 535 may request that informational material be distributed to employees covered by this MOU via the County Inter-Office Mail system. All such requests must be submitted two weeks in advance of the proposed distribution date to the Personnel Services Manager – Labor Relations in writing with the informational material attached. If the Personnel Services Manager – Labor Relations authorizes the distribution of the information via the County Inter-Office Mail system, the Union will be notified and required to provide the appropriate number of copies, in addressed envelopes to the County Reprographics Manager for distribution.

## USE OF PERSONAL VEHICLES

The County of Fresno agrees to review the current process of assigning/allocating County vehicles to employees who conduct field work associated with their assignments in various departments/programs within the Human Services System. The findings of the review will be reported during the next quarterly Union/Management meeting in June 2004.

## TWO-TIER RETIREMENT – VOLUNTARY (SUNSETS JUNE 17, 2007)

Effective July 1, 2005, the County of Fresno and SEIU – Local 535 agree to extend to employees in classifications covered by this MOU the voluntary option of utilizing a lower retirement tier.

The lower retirement tier, if selected by the employee, shall be as follows:

1. General Members – 2% at 55 years of age. (GC 31676.16)
2. The parties agree that the above alternative option shall sunset with the end of Fresno County Fiscal Year 2008-2009.
3. The parties agree that the Retirement Association shall provide retirement rate and retirement benefit information to employees considering opting into a lower retirement tier. This information shall be on the form the employee signs to opt into a lower retirement benefit tier.

## TWO-TIER RETIREMENT – MANDATORY (EFFECTIVE JUNE 18, 2007)

Effective Fiscal Year 2007-2008, any employee hired into a permanent general/miscellaneous position represented by SEIU – Local 535 shall be enrolled mandatorily under the following 1937 Act retirement plan section:

### General/Miscellaneous Employees – GC Section 31676.15

- 2.6186% @ age 60; 3.1336% @ age 65
- 3 year average for final compensation

Any employee occupying a permanent position, who promotes, demotes or transfers into a permanent position, shall continue under the retirement plan section (e.g., Tier I, Tier II, etc.) which they were enrolled in immediately prior to their promotion, demotion or transfer.

Any employee who has deferred their retirement, pursuant to provisions of the 1937 Act, and subsequently reactivates participation in the retirement plan shall be given the option to continue under the retirement plan section (e.g., Tier I, Tier II, etc.) that they were enrolled in prior to deferral.

Effective Fiscal Year 2007/2008, any employee who opted to change their retirement benefit from Tier I (2.5% @ age 55) to Section 31676.16 of the 1937 Act, shall be enrolled into Section 31676.15 of the 1937 Act.

## MOU REOPENERS

The County of Fresno and SEIU – Local 535 agree to meet and confer, by bargaining unit, over the following non-economic issues:

1. Contracting Out – Both parties agree to develop factors the Board of Supervisors has to consider prior to contracting out.
2. Employee Evaluations – The parties agree to meet with department heads regarding administration of current MOU performance evaluation language and reopen on this issue in December of 2006.
3. Shop Stewards Workload – The parties agree to reopen on this issue in December of 2006.

In addition, the parties agree that this Unit shall be allowed two (2) non-economic reopeners effective in December of 2006.

The parties agree that this Unit will be allowed two (2) non-economic MOU reopeners effective in October 2009. The County agrees to allow the Unit to share these two (2) MOU reopeners that are effective October 2009 with other SEIU-Local 535 bargaining units.

TERM AND SALARY ADJUSTMENT

Term

October 25, 2004 through October 30, 2011.

Salary Adjustment

- 2.50%        Effective December 20, 2004.
- 2.75%        Effective December 19, 2005.
- 3.50%        Effective December 18, 2006.
- 2.00%        Effective July 2, 2007.
- 3.50%        Effective December 17, 2007.
- 3.00%        Effective December 15, 2008.
- 3.00%        Effective December 14, 2009.
- 3.00%        Effective December 13, 2010.

SIXTH STEP ADDED

Effective June 18, 2007, one (1) additional salary range step (Step 6) shall be added to all classifications. Salary Resolution Section 411 shall continue to govern advancement to Step 6, with the exception that any incumbent employee advanced to Step 6 shall maintain their anniversary date.

COUNTY OF FRESNO

SEIU - LOCAL 535, UNIT 22

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ADDENDUM NO. 1  
 TO MEMORANDUM OF UNDERSTANDING  
 FOR PROFESSIONAL, PARA-PROFESSIONAL  
 & TECHNICAL EMPLOYEES – UNIT 22  
 (MOU Term: October 25, 2004 through October 30, 2011)

SALARIES  
 RECOMMENDED SALARY RANGES AND EFFECTIVE DATES

<u>Classifications</u>	<u>Current Range</u>	<u>Effective 12/20/04</u>	<u>Effective 12/19/05</u>	<u>Effective 10/9/06</u>	<u>Effective 12/18/06</u>	<u>Effective 7/2/07</u>	<u>Effective 12/17/07</u>	<u>Effective 12/15/08</u>	<u>Effective 12/14/09</u>	<u>Effective 12/13/10</u>
Building Inspector I	1502	1540	1582		1637	1670	1728	1780	1833	1888
Building Inspector II	1715	1758	1806		1869	1906	1973	2032	2093	2156
Cadastral Technician I	1144	1173	1205		1247	1272	1317	1357	1398	1440
Cadastral Technician II	1299	1331	1368		1416	1444	1495	1540	1586	1634
Cadastral Technician III	1405	1440	1480		1532	1563	1618	1667	1717	1769
Defense Investigator I	1442	1478	1519		1572	1603	1659	1709	1760	1813
Defense Investigator II	1748	1792	1841		1905	1943	2011	2071	2133	2197
Dental Assistant I	777	796	818		847	864	894	921	949	977
Dental Assistant II	859	880	904		936	955	988	1018	1049	1080
Deputy Public Administrator/Guardian I	1272	1304	1340		1387	1415	1465	1509	1554	1601
Deputy Public Administrator/Guardian II	1404	1439	1479		1531	1562	1617	1666	1716	1767
Health Education Specialist				1371*	1419	1447	1498	1543	1589	1637
Housing Rehabilitation Specialist I	1577	1616	1660		1718	1752	1813	1867	1923	1981
Housing Rehabilitation Specialist II	1715	1758	1806		1869	1906	1973	2032	2093	2156
Housing Rehabilitation Specialist III	1813	1858	1909		1976	2016	2087	2150	2215	2281

SALARIES (CONTINUED)

RECOMMENDED SALARY RANGES AND EFFECTIVE DATES

<u>Classifications</u>	<u>Current Range</u>	<u>Effective 12/20/04</u>	<u>Effective 12/19/05</u>	<u>Effective 10/9/06</u>	<u>Effective 12/18/06</u>	<u>Effective 7/2/07</u>	<u>Effective 12/17/07</u>	<u>Effective 12/15/08</u>	<u>Effective 12/14/09</u>	<u>Effective 12/13/10</u>
Librarian I	1370	1404	1443		1494	1524	1577	1624	1673	1723
Librarian II	1509	1547	1590		1646	1679	1738	1790	1844	1899
Librarian III	1720	1763	1811		1874	1911	1978	2037	2098	2161
Librarian Trainee (Biweekly)	1211	1241	1275		1320	1346	1393	1435	1478	1522
Library Assistant I	809	829	852		882	900	932	960	989	1019
Library Assistant II	899	921	946		979	999	1034	1065	1097	1130
Medical Assistant I				788*	816	832	861	887	914	941
Medical Assistant II				868*	898	916	948	976	1005	1035
Pharmacist (Step 3)	2481	2543	2613		2704	2758	2855	2941	3029	3120
Probate Assistant	990	1015	1043		1080	1102	1141	1175	1210	1246
Public Health Laboratory Assistant I	703	721	741		767	782	809	833	858	884
Public Health Laboratory Assistant II	830	851	874		905	923	955	984	1014	1044
Public Works Investigator I	1205	1235	1269		1313	1339	1386	1428	1471	1515
Public Works Investigator II	1292	1324	1360		1408	1436	1486	1531	1577	1624
Radiologic Technologist I	1182	1212	1245		1289	1315	1361	1402	1444	1487
Radiologic Technologist II	1335	1368	1406		1455	1484	1536	1582	1629	1678
Senior Library Assistant	971	995	1022		1058	1079	1117	1151	1186	1222
Senior Probate Assistant	1229	1260	1295		1340	1367	1415	1457	1501	1546

\* Health Education Specialist and Medical Assistant series added to Unit 22 effective October 9, 2006



ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING FOR  
SEIU – LOCAL 535, UNITS 2, 3, 4, 11, 12, 22, 31 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
PUBLIC SERVICE RETIREMENT CREDIT

The parties acknowledge that the Fresno County Board of Supervisors desires to adopt, through Resolution, provisions of the County Employees Retirement Law of 1937 (1937 Act) effective April 1, 2001, allowing employees who are members of the retirement system to purchase prior public service for retirement credit purposes. Consequently, SEIU – Local 535 agrees to the following terms and conditions which will be incorporated into the Board's Resolution:

1. Those employees who are members of the Fresno County Retirement System as of April 1, 2001, will have until June 30, 2001, to request the purchase of prior public service credit; requests received after June 30, 2001, for this group of employees, will not be processed.
2. Those employees who become members of the Fresno County Retirement System after April 1, 2001, will have a three-month period after they become members to request the purchase of prior public service credit; requests received after the three-month period will not be processed.
3. Employees may purchase up to a maximum of four (4) years of qualifying public service credit.
4. Employees' contributions associated with the purchase of public service credit shall be made by lump sum payment or by installment payments, consistent with Section 31641.2, (a) and (b).
5. Consistent with Section 31641.95, the Board of Supervisors may at anytime discontinue this option through Resolution.

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING FOR  
SEIU – LOCAL 535, UNITS 2, 3, 4, 11, 12, 22, 31 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
EXTENSION OF PAID MILITARY LEAVE

The parties acknowledge that the Fresno County Board of Supervisors desires to adopt, through Resolution, provisions that would grant additional military benefits to bargaining unit members pursuant to California Military and Veterans Code Section 395.03.

The parties agree to the following:

1. Bargaining unit members shall have the same options available to them as were granted to management and unrepresented employees under the Board's Resolution adopted on October 16, 2001 (attached).
2. Bargaining unit members, for military leave purposes, may receive voluntary Annual Leave or Vacation Leave donations from County employees on a pay period by pay period basis, based on employee need. This provision is temporary in nature and made under the following conditions:
  - A) Bargaining unit members must be permanent County employees called to active duty from the California National Guard or United States Military Reserve in support of Operation Enduring Freedom.
  - B) The employee must have exhausted or is about to exhaust all of his/her Annual Leave or Vacation Leave.
3. This Addendum sunsets on April 14, 2002, unless extended by the County of Fresno.

ADDENDUM  
TO MEMORANDA OF UNDERSTANDING FOR  
SEIU – LOCAL 535, UNITS 2, 3, 4, 11, 12, 22, 31 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
ACCESS – FRESNO COUNTY PLAZA LOBBY

The parties agree that the Fresno County Plaza Lobby will be available subject to all terms and conditions set forth in Memoranda of Understanding, the Fresno County Employee Relations Ordinance and/or Fresno County Management Directives.

The parties further agree that the Fresno County Plaza Lobby shall be available, as identified on the attachment, provided space can be made available without interfering with County business and meetings are held outside affected employees' regularly scheduled working hours.

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING  
FOR SEIU – LOCAL 535 – UNITS 2, 3, 4, 11, 12, 22, 31 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

The parties agree to the attached Addendum – “Employee Grievance Resolution Procedure” dated August 21, 2003, to existing Memoranda of Understanding for SEIU – Local 535, Representation Units 2, 3, 4, 11, 12, 22, 31 & 36.

This Addendum supersedes the following Addenda in the Memoranda of Understanding:

- 1) Unit 2 - Addendum #2
- 2) Unit 3 - Addendum #2
- 3) Unit 4 - Addendum #2
- 4) Unit 11 - Addendum #2
- 5) Unit 12 - Addendum #2
- 6) Unit 22 - Addendum #2
- 7) Unit 31 - Addendum #2
- 8) Unit 36 - Addendum #3

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING  
FOR SEIU – LOCAL 535 – UNITS 2, 3, 4, 11, 12, 22, 31 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

Before filing a grievance, be certain to read this entire procedure, including the definitions.

PURPOSE

It is a mutual obligation on the part of administrative, supervisory and non-supervisory employees of the County of Fresno to provide efficient and continuous services to the public. Employee morale is an important factor in maintaining a high level of public service, and administration has a responsibility to provide an orderly and expeditious method for resolving problems, which may arise from working relationships and conditions.

GENERAL

This procedure is intended to provide an orderly method for processing grievances in the interest of obtaining a fair and equitable solution. The parties so involved must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest date and at the lowest step in the process. The processing of a grievance shall be considered as County business, and the employee and his/her representative shall have reasonable time and facilities allocated. The use of County time shall not be excessive, nor shall this privilege be abused. The aggrieved employee(s) shall have the assurance that filing of a grievance will not result in reprisal of any nature.

Time lines are designed to quickly resolve a grievance. It is realized, however, that on occasions the parties concerned may be unable to comply with the established time lines. In such instances, the time lines may be extended upon the mutual agreement of all parties concerned. However, a one-time only ten (10) day waiver shall be granted at the request of the employee or his/her representative at any step in the grievance resolution process. Any subsequent requests for waivers must be mutually agreed upon. If there is no mutual agreement to extend a time line, and the stated time has elapsed, then the grievance shall automatically proceed to the next step. There shall be no automatic rulings or abandonment of the grievance. However, the employee or his/her representative may withdraw the grievance at any time.

Any dispute among the parties concerning procedural matters (e.g. timelines, jurisdiction, grievability) shall be discussed as early in the procedure as possible. Such matters shall not stop the processing of the grievance consistent with this procedure. If the procedural matters are not resolved prior to Step 3, the Grievance Committee shall hear any procedural matters.

Standard Grievance Forms shall be available to employees through the individual departments, the Labor Relations Division, and SEIU – Local 535. The Form shall include, in addition to the standard sections, a check-off box identifying the grievance as a Group Grievance.

### INFORMAL RESOLUTION (EMPLOYEE OPTION)

When an employee becomes aware that a problem exists, the employee is encouraged to discuss the matter by following their normal department chain of command. However, the employee may proceed to Step 1 without following the Informal Resolution process.

An employee has fifteen (15) working days from the date that a problem occurs or is discovered to pursue both the Informal Resolution process and file a grievance at Step 1. If the problem is not resolved within this time frame, the employee is encouraged to proceed to Step 1.

### STEP 1 – DEPARTMENT LIAISON REVIEW

The intent of Step 1 is to identify why the employee feels there is a grievance and facilitate communication and resolution. The goal is to clearly identify issues and areas of agreement/disagreement and to have the parties present whatever available information/documentation necessary to fully attempt to resolve the grievance. Therefore, further clarification of the problem may be necessary and a clear and concise statement of the issue shall be developed.

Within fifteen (15) working days of the date that a problem occurs or is discovered, the employee or their representative shall submit to the designated department liaison (see attached list) a clear and concise statement of the grievance and desired resolution in writing on the appropriate grievance form signed by the employee(s). A Group Grievance shall be signed by a minimum of two (2) employees affected by the grievance. The employee or their representative shall also send a copy of the grievance form to the Labor Relations Division.

The department liaison has five (5) working days to get back to the employee or their representative with a response. A conference, if needed, will be held within ten (10) working days of the response from the department liaison or when mutually agreed upon. All processing of the grievance at Step 1, including a written decision from the department liaison, shall be completed within this fifteen (15) working day period, unless mutually waived.

The process that may be followed at Step 1 is dependent on the nature of the grievance and may include, but is not limited to, the following: referring the grievance to Step 2 if the grievance is outside of department head's authority, as determined by the department liaison in consultation with Labor Relations Division staff; setting up a conference/meeting with involved parties to discuss the grievance, including Labor Relations staff if necessary; referral of the employee or their representative to another department manager/supervisor.

If not resolved at Step 1, the grievance goes automatically to Step 2 – Labor Relations Review. If Labor Relations has been involved at Step 1, the grievance goes automatically to Mediation. The department liaison shall write a decision to the grievance on the original grievance form and will send the form to the employee or their representative (as indicated on the grievance form). The department liaison shall also send a copy of the form to the Labor Relations Division. The written decision shall include a clear and concise statement including the reason(s) for the decision.

### STEP 2 – LABOR RELATIONS REVIEW

Grievances unresolved at Step 1, involving matters outside the department head's authority, or involving employees working in separate departments shall be submitted to the Labor Relations Division for resolution. If the grievance has been reviewed at Step 1, Labor Relations will attempt to mediate the grievance. If it has been referred directly to the Labor Relations Division without having gone through Step 1, Labor Relations will hear the matter, write a response to the grievance on the grievance form, and send the form to the employee or their representative (as indicated on the grievance form). In the latter instance, the intent, consistent with Step 1, is to identify issues and areas of agreement/disagreement and to have the parties present whatever available information/documentation necessary to fully attempt to resolve the grievance. Therefore, further clarification of the problem may be necessary and a clear statement of the issue shall be developed.

All processing of the grievance at Step 2 shall be completed within fifteen (15) working days of the department liaison's written decision, unless mutually waived.

### MEDIATION

Grievances unresolved at Step 2 or at Step 1 if Labor Relations has been involved, shall be submitted to Mediation. The parties shall obtain the services of a mediator from the State Mediation and Conciliation Services in an effort to mediate grievance resolution before Step 3 is pursued. The parties shall not divulge in any form the offers made in mediation.

### STEP 3 – GRIEVANCE COMMITTEE REVIEW

If a grievance is not resolved through mediation, the Union shall contact State Mediation and Conciliation Services within fifteen (15) working days following mediation, to obtain a list of persons willing to serve as Grievance Committee chairperson, with a copy to the Labor Relations Division. The Grievance Committee shall meet to hear the grievance at the earliest possible date.

A pre-hearing conference with the Grievance Committee and the parties shall be set on the day of the hearing immediately preceding the hearing. The purpose of the conference is to identify issues to be resolved and remedy(ies); stipulate to uncontested facts and documents; to review the process and conduct of the hearing; and to identify any potential problems.

During the hearing, the Committee shall first hear any procedural matters (e.g., timeliness,

jurisdiction, or grievability) which may be raised by either party. In addition, the Committee shall decide whether the decision will be precedent setting, and to whom it would apply within the bargaining unit. The Committee shall state in writing its factual findings and reasons for its decision within thirty (30) calendar days of the hearing.

The responsibilities of the chairperson shall include, in addition to normal and customary duties, the following:

1. Writing findings, decision, and dissenting opinion.
2. Obtaining the signatures of the Committee members.
3. Preparing five (5) originals of the decision and distributing to the employee and their representative, department head, Labor Relations and State Mediation and Conciliation Services.

The chairperson will be compensated at the rate of One Thousand – Five Hundred Dollars (\$1,500) for chairing the hearing, which shall be borne equally by the employee or their representative and the County.

#### IMPLEMENTATION

If the decision of the Grievance Committee can be implemented by the Department Head without Board of Supervisors' action, the recommendation shall be implemented by the Department Head. If the decision of the Grievance Committee cannot be implemented by the Department Head but requires Board of Supervisor's action, the recommendation will be submitted for consideration by the Board of Supervisors at their next regularly scheduled public meeting. The action of the Board of Supervisors shall be final and binding.

#### APPEALS

If the decision of the Grievance Committee can be implemented by the Department Head and without Board of Supervisors' action, the County or the employee may seek relief in a court of law. A party desiring to reserve the right to appeal the Grievance Committee's decision in a court of law pursuant to these rules has the burden of preserving the record of the hearing. A party who plans to use a court reporter shall inform the other party within three (3) calendar days of the hearing to avoid duplication of costs. Appeal from decisions by the Grievance Committee shall be on the record of the Grievance Committee's hearing by administrative mandamus under California Code of Civil Procedure Section 1094.5, which appeal shall be filed within thirty (30) calendar days after the Grievance Committee's decision.



## DEFINITIONS

Chain of Command – This is the normal chain of supervision in a department for addressing/resolving operational concerns/problems. This normally would begin with the first-line supervisor through the Department Head/Administration.

Department Head – The administrative head or acting head of the department involved, or a designated representative.

Department Liaison – Individual identified within a department to coordinate the grievance resolution process at Step 1. See attached list. The Labor Relations Division is responsible for updating the list on an annual basis/as needed. Each department shall keep the Labor Relations Division apprised of any changes of the designated department liaison.

Employee – An individual occupying a position permanently allocated by the Board of Supervisors as a part of the regular staffing of the department.

Grievance – A grievance is a complaint relating to any phase of an employee's employment or working conditions which the employee believes has been adversely affected because of a misapplication of: A Memorandum of Understanding, Ordinance, Resolution, written policy, administrative order, management directive, or a clearly established lawful past practice; provided, however, that such complaint shall not include an action subject to the jurisdiction of the Civil Service Commission or any other matters which are otherwise reviewable pursuant to another administrative remedy.

Grievance Committee – This committee shall be composed of the following three (3) members:

1. The grievant shall select one (1) member who shall serve voluntarily without compensation, unless that member is a County employee. In that case, the employee shall receive normal compensation when serving during regular working hours. No overtime shall be paid when part or all of the process outside regular working hours. This member shall not be a party of interest (i.e., same department and/or same job classification) to the grievance.
2. The County representative, who shall not be an employee of the same department as the grievant.
3. An individual selected by the employee or their representative and Labor Relations from a panel of five (5) candidates submitted by the California Department of Industrial Relations State Mediation and Conciliation Service. Said member so selected shall serve as Chairperson.

Group Grievance – A common grievance involving two (2) or more employees.

Parties – Reference to parties in this procedure include the employee or their representative (as indicated on the Grievance Form), department management, and Labor Relations staff, depending on the context of the particular reference.

Representative – The person identified by the employee on the Grievance Form to appear along with the employee in the presentation of a grievance, beginning at the Step 1 level.

Work Day – The time period for grievance purposes begins on the first day following the day the grievance is filed or submitted to the next step. The work day to be utilized will be the employee's work day if the burden is on the employee to respond, or will be the supervisor manager/department liaison's/Labor Relations staff work day if the burden is on them to respond.

COUNTY OF FRESNO  
EMPLOYEE GRIEVANCE RESOLUTION FORM  
FOR SEIU – LOCAL 535 – UNIT 2, 3, 4, 11, 12, 22, 31 & 36

Please be sure to read the entire attached procedure, including the definitions, before completing this form.

\_\_\_\_\_  
Employee Name(s)

\_\_\_\_\_  
Classification(s)

\_\_\_\_\_  
Department(s)

\_\_\_\_\_  
Bargaining Unit

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Work Phone(s)

Check box if this is a group grievance (two signatures required on page 2)

**DESCRIPTION OF GRIEVANCE**

1. List the date the alleged grievance occurred or was discovered: \_\_\_\_\_

2. I feel I have been adversely affected by the misapplication of:

Memorandum of Understanding (Title and Article): \_\_\_\_\_

Ordinance (Section): \_\_\_\_\_

Resolution (Number and Date): \_\_\_\_\_

Written Policy (Attach a Copy)

Management Directive (Attach a Copy)

Administrative Order (Attach a Copy)

Clearly established lawful past practice. (Documentation that this is a past practice should be attached.)

3. State as clearly and concisely as possible the specifics of your alleged grievance. Use additional paper if necessary.

4. Was this problem discussed through the normal chain of command? (optional) YesNo

If yes, please identify person(s) you spoke with: \_\_\_\_\_

5. List your desired solution(s) to this problem:

6. Name/phone number of representative, if any: \_\_\_\_\_

7. Should all communication be directed to your representative? Yes No

\_\_\_\_\_  
Employee Signature                      Print Name                      Date

\_\_\_\_\_  
Employee Signature                      Print Name                      Date

**Note: A copy of this grievance form must be sent to the Labor Relations Division, Fresno County Plaza, 2220 Tulare Street, 14<sup>th</sup> Floor, Fresno, California, 93721 (Stop #188 through County Messenger Service – 488-3048)**

**STEP 1 – DEPARTMENT LIAISON REVIEW**

1. Department liaison: \_\_\_\_\_

2. Date grievance submitted to department liaison: \_\_\_\_\_

3. Date of initial department liaison response: \_\_\_\_\_

4. Date of department liaison conference (if applicable): \_\_\_\_\_

5. Department liaison decision:

\_\_\_\_\_  
Department Liaison Signature

\_\_\_\_\_  
Date

**NOTE: Department liaison must return original grievance form to the employee or their representative (if identified on this form) and send a copy to the Labor Relations Division – Stop #188 (488-3048)**

**STEP 2 – LABOR RELATIONS REVIEW**

1. Date grievance form received by Labor Relations: \_\_\_\_\_
2. Labor Relations staff assigned to this grievance: \_\_\_\_\_
3. Date of Labor Relations Division conference (if necessary): \_\_\_\_\_
4. Labor Relations response:

\_\_\_\_\_  
Labor Relations Staff Signature

\_\_\_\_\_  
Date

**NOTE: Labor Relations staff must return a copy of the grievance form to the employee or their representative (if identified on this form) and send a copy to department liaison.**

**MEDIATION**

1. Name of State Mediator: \_\_\_\_\_

2. Date of Mediation Conference: \_\_\_\_\_

- 
- 
- 
- 
- 
- 
- 
- 
- 
- 

**GRIEVANCE RESOLUTION – CHECK APPROPRIATE BOXES**

- Grievance withdrawn – problem resolved at:  Step 1    Step 2    Mediation
- Problem not resolved – request review by a grievance committee (Step 3)

\_\_\_\_\_  
Employee or Representative Signature

\_\_\_\_\_  
Date

**Note: A copy of this grievance form must be forwarded to the Labor Relations Division, Fresno County Plaza, 2220 Tulare Street, 14<sup>th</sup> Floor, Fresno, California, 93721 (Stop #188 through County Messenger Service – 488-3048)**

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING FOR  
PROFESSIONAL, PARA-PROFESSIONAL  
& TECHNICAL EMPLOYEES – UNIT 22  
(MOU Term: October 25, 2004 through October 30, 2011)  
CALIFORNIA GOVERNMENT CODE, SECTION 3500-3511  
(The Meyers-Milias-Brown Act)

3500. (a) It is the purpose of this chapter to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the various public agencies in the State of California by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by those organizations in their employment relationships with public agencies. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the charters, ordinances, and rules of local public agencies that establish and regulate a merit or civil service system or which provide for other methods of administering employer-employee relations nor is it intended that this chapter be binding upon those public agencies that provide procedures for the administration of employer-employee relations in accordance with the provisions of this chapter. This chapter is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed.
- (b) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under this chapter are not reimbursable as state-mandated costs.
- 3500.5. This chapter shall be known and may be cited as the "Meyers-Milias-Brown Act."
3501. As used in this chapter:
- (a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing those employees in their relations with that public agency.
- (b) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency as an employee organization that represents employees of the public agency.
- (c) Except as otherwise provided in this subdivision, "public agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school

district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California.

(d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

(e) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(f) "Board" means the Public Employment Relations Board established pursuant to Section 3541.

3501.5. As used in this chapter, "public agency" does not mean a superior court.

3502. Except as otherwise provided by the Legislature, public employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public agency.

3502.1. No public employee shall be subject to punitive action or denied promotion, or threatened with any such treatment, for the exercise of lawful action as an elected, appointed, or recognized representative of any employee bargaining unit.

3502.5. (a) Notwithstanding Section 3502 or 3502.6, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may only be filed after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized



employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from any claims, demands, or other action relating to the public agency's compliance with the agency fee obligation.

(c) Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to any such fund chosen by the employee. Proof of the payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(d) An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to subdivision (b).

(e) An agency shop arrangement shall not apply to management, confidential, or supervisory employees.

(f) Every recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

3503. Recognized employee organizations shall have the right to represent their members in their employment relations with public agencies. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public agency.

3504. The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.
- 3504.5. (a) Except in cases of emergency as provided in this section, the governing body of a public agency, and boards and commissions designated by law or by the governing body of a public agency, shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the governing body or the designated boards and commissions and shall give the recognized employee organization the opportunity to meet with the governing body or the boards and commissions.
- (b) In cases of emergency when the governing body or the designated boards and commissions determine that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or the boards and commissions shall provide notice and opportunity to meet at the earliest practicable time following the adoption of the ordinance, rule, resolution, or regulation.
- (c) The governing body of a public agency with a population in excess of 4,000,000, or the boards and commissions designated by the governing body of such a public agency shall not discriminate against employees by removing or disqualifying them from a health benefit plan, or otherwise restricting their ability to participate in a health benefit plan, on the basis that the employees have selected or supported a recognized employee organization. Nothing in this section shall be construed to prohibit the governing body of a public agency or the board or commission of a public agency and a recognized employee organization from agreeing to health benefit plan enrollment criteria or eligibility limitations.
3505. The governing body of a public agency, or such boards, commissions, administrative officers or other representatives as may be properly designated by law or by such governing body, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of such recognized employee organizations, as defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action. "Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent.
- 3505.1. If agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination.
- 3505.2. If after a reasonable period of time, representatives of the public agency and the recognized employee organization fail to reach agreement, the public agency and the recognized

employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the public agency and one-half to the recognized employee organization or recognized employee organizations.

- 3505.3. Public agencies shall allow a reasonable number of public agency employee representatives of recognized employee organizations reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the public agency on matters within the scope of representation.
- 3505.4. If after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best, and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of a public agency's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as otherwise required by law.
3506. Public agencies and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public employees because of their exercise of their rights under Section 3502.
3507. A public agency may adopt reasonable rules and regulations after consultation in good faith with representatives of an employee organization or organizations for the administration of employer-employee relations under this chapter (commencing with Section 3500). Such rules and regulations may include provisions for (a) verifying that an organization does in fact represent employees of the public agency (b) verifying the official status of employee organization officers and representatives (c) recognition of employee organizations (d) exclusive recognition of employee organizations formally recognized pursuant to a vote of the employees of the agency or an appropriate unit thereof, subject to the right of an employee to represent himself as provided in Section 3502 (e) additional procedures for the resolution of disputes involving wages, hours and other terms and conditions of employment (f) access of employee organization officers and representatives to work locations (g) use of official bulletin boards and other means of communication by employee organizations (h) furnishing nonconfidential information pertaining to employment relations to employee organizations (i) such other matters as are necessary to carry out the purposes of this chapter. Exclusive recognition of employee organizations formally recognized as majority representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition. No public agency shall unreasonably withhold recognition of employee organizations.
- 3507.1. (a) Unit determinations and representation elections shall be determined and processed in accordance with rules adopted by a public agency in accordance with this chapter. In a representation election, a majority of the votes cast by the employees in the appropriate bargaining unit shall be required.
- (b) Notwithstanding subdivision (a) and rules adopted by a public agency pursuant to Section 3507, a bargaining unit in effect as of the effective date of this section shall continue in effect unless changed under the rules adopted by a public agency pursuant to Section 3507.

(c) A public agency shall grant exclusive or majority recognition to an employee organization based on signed petition, authorization cards, or union membership cards showing that a majority of the employees in an appropriate bargaining unit desire the representation, unless another labor organization has previously been lawfully recognized as exclusive or majority representative of all or part of the same unit. Exclusive or majority representation shall be determined by a neutral third party selected by the public agency and the employee organization who shall review the signed petition, authorization cards, or union membership cards to verify the exclusive or majority status of the employee organization. In the event the public agency and the employee organization cannot agree on a neutral third party, the Division of Conciliation of the Department of Industrial Relations shall be the neutral third party and shall verify the exclusive or majority status of the employee organization. In the event that the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second labor organization has the support of at least 30 percent of the employees in the unit in which recognition is sought, the neutral third party shall order an election to establish which labor organization, if any, has majority status.

- 3507.3. Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees. In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute. "Professional employees," for the purposes of this section, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.
- 3507.5. In addition to those rules and regulations a public agency may adopt pursuant to and in the same manner as in Section 3507, any such agency may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the public agency and restricting such employees from representing any employee organization, which represents other employees of the public agency, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of employees to be members of and to hold office in an employee organization.
3508. (a) The governing body of a public agency may, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws or local ordinances, and may by resolution or ordinance adopted after a public hearing, limit or prohibit the right of employees in these positions or classes of positions to form, join, or participate in employee organizations where it is in the public interest to do so. However, the governing body may not prohibit the right of its employees who are full-time "peace officers," as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, to join or participate in employee organizations which are composed solely of those peace officers, which concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.
- (b) (1) This subdivision shall apply only to a county of the seventh class.
- (2) For the purposes of this section, no distinction shall be made between a position designated as a peace officer position by Chapter 4.5 (commencing with Section 830) of

Title 3 of Part 2 of the Penal Code at the time of the enactment of the 1971 amendments to this section, and a welfare fraud investigator or inspector position designated as a peace officer position by any amendment to that Chapter 4.5 at any time after the enactment of the 1971 amendments to this section.

(3) It is the intent of this subdivision to overrule *San Bernardino County Sheriff's Etc. Assn. v. Board of Supervisors* (1992) 7 Cal.App.4th 602, 611, with respect to San Bernardino County designating a welfare fraud investigator or inspector as a peace officer under this section.

(c) (1) This subdivision shall apply only to a county of the seventh class and shall not become operative until it is approved by the county board of supervisors by ordinance or resolution.

(2) For the purposes of this section, no distinction shall be made between a position designated as a peace officer position by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code at the time of the enactment of the 1971 amendments to this section, and a probation corrections officer position designated as a peace officer position by any amendment to that Chapter 4.5 at any time after the enactment of the 1971 amendments to this section.

(3) It is the intent of this subdivision to overrule *San Bernardino County Sheriff's Etc. Assn. v. Board of Supervisors* (1992) 7 Cal.App.4th 602, 611, to the extent that it holds that this section prohibits the County of San Bernardino from designating the classifications of Probation Corrections Officers and Supervising Probation Corrections Officers as peace officers. Those officers shall not be designated as peace officers for purposes of this section unless that action is approved by the county board of supervisors by ordinance or resolution.

(4) Upon approval by the Board of Supervisors of San Bernardino County, this subdivision shall apply to petitions filed in May 2001 by Probation Corrections Officers and Supervising Probation Corrections Officers.

(d) The right of employees to form, join and participate in the activities of employee organizations shall not be restricted by a public agency on any grounds other than those set forth in this section.

3508.1. For the purposes of this section, the term "police employee" includes the civilian employees of the police department of any city. Police employee does not include any public safety officer within the meaning of Section 3301.

(a) With respect to any police employee, except as provided in this subdivision and subdivision (d), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 2002. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the police employee of its proposed disciplinary action within that year, except in any of the following circumstances:

- (1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
  - (2) If the police employee waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.
  - (3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
  - (4) If the investigation involves more than one employee and requires a reasonable extension.
  - (5) If the investigation involves an employee who is incapacitated or otherwise unavailable, the time during which the person is incapacitated or unavailable shall toll the one-year period.
  - (6) If the investigation involves a matter in civil litigation in which the police employee is named as a party defendant, the one-year time period shall be tolled while the civil action is pending.
  - (7) If the investigation involves a matter in criminal litigation in which the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.
  - (8) If the investigation involves an allegation of workers' compensation fraud on the part of the police employee.
- (b) When a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.
- (c) If, after investigation and predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the police employee in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the police employee is unavailable for discipline.
- (d) Notwithstanding the one-year time period specified in subdivision (a), an investigation may be reopened against a police employee if both of the following circumstances exist:
- (1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.
  - (2) One of the following conditions exists:
    - (A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.
    - (B) The evidence resulted from the police employee's predisciplinary response or procedure.
- 3508.5. (a) Nothing in this chapter shall affect the right of a public employee to authorize a dues or service fees deduction from his or her salary or wages pursuant to Section 1157.1, 1157.2, 1157.3, 1157.4, 1157.5, or 1157.7.

(b) A public employer shall deduct the payment of dues or service fees to a recognized employee organization as required by an agency shop arrangement between the recognized employee organization and the public employer.

(c) Agency fee obligations, including, but not limited to, dues or agency fee deductions on behalf of a recognized employee organization, shall continue in effect as long as the employee organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the public employer and the recognized employee organization.

3509. (a) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (b) and (c).

(b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a public agency pursuant to Section 3507 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.

(c) The board shall enforce and apply rules adopted by a public agency concerning unit determinations, representation, recognition, and elections.

(d) Notwithstanding subdivisions (a) to (c), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the power and responsibility to take actions on recognition, unit determinations, elections, and all unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter.

(e) This section shall not apply to employees designated as management employees under Section 3507.5.

(f) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is itself in violation of this chapter. This subdivision shall not be construed to restrict or expand the board's jurisdiction or authority as set forth in subdivisions (a) to (c), inclusive.

3509.5. (a) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, and any party to a final decision or order of the board in a unit determination, representation, recognition, or election matter that is not brought as an unfair practice case, may petition for a writ of extraordinary relief from that decision or order. A board order directing an election may not be stayed pending judicial review.

(b) A petition for a writ of extraordinary relief shall be filed in the district court of appeal having jurisdiction over the county where the events giving rise to the decision or order occurred. The petition shall be filed within 30 days from the date of the issuance of the board's final decision or order, or order denying reconsideration, as applicable. Upon the filing of the petition, the court shall cause notice to be served upon the board and thereafter shall have jurisdiction of the proceeding. The board shall file in the court the record of the

proceeding, certified by the board, within 10 days after the clerk's notice unless that time is extended by the court for good cause shown. The court shall have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the decision or order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded by this section, apply to proceedings pursuant to this section.

(c) If the time to petition for extraordinary relief from a board decision or order has expired, the board may seek enforcement of any final decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. If, after hearing, the court determines that the order was issued pursuant to the procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce the order by writ of mandamus or other proper process. The court may not review the merits of the order.

3510. (a) The provisions of this chapter shall be interpreted and applied by the board in a manner consistent with and in accordance with judicial interpretations of this chapter.
- (b) The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public employees.
3511. The changes made to Sections 3501, 3507.1, and 3509 of the Government Code by legislation enacted during the 1999-2000 Regular Session of the Legislature shall not apply to persons who are peace officers as defined in Section 830.1 of the Penal Code.



ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING  
FOR SEIU – LOCAL 535, UNITS 2, 3, 4, 12, 22 AND 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
DISCIPLINARY ARBITRATION

REQUEST FOR ARBITRATION

If the Department Head agrees to arbitration he/she shall indicate so on the Order of Disciplinary Action and the Order shall advise the employee of his/her right to either:

- 1) Appeal the action to the Fresno County Civil Service Commission within fifteen (15) working days of service of the Order by a signed statement asking for a hearing; or
- 2) Submit to the Director of Personnel Services a request in writing within fifteen (15) working days of service of the Order, that the matter be submitted to arbitration. A copy of the Order will be filed with the Union by the acting department.

Under no circumstances can the employee submit an appeal of the disciplinary action to both the Fresno County Civil Service Commission and to arbitration.

If the employee requests to submit the matter to arbitration (rather than to the Fresno County Civil Service Commission), the provisions of this Article supersede Sections 10120 through 10190 of Fresno County Personnel Rule 10 – Disciplinary Actions.

Failure by the employee to file an appeal within the above-referenced time frames will result in the employee waiving his/her right to appeal the Order and the action of the department becoming final.

WRITTEN RESPONSE TO THE ORDER OF DISCIPLINARY ACTION

Twenty (20) working days prior to the scheduled arbitration hearing, the employee will submit a written response to the Order of Disciplinary Action, which includes his/her reason for disagreeing with the Order.

SELECTION OF ARBITRATOR

The County and the Union agree to utilize a panel of five (5) mutually agreed upon arbitrators. Arbitrators will be issued a number of one (1) through five (5) and will be scheduled to hear arbitrators in that order (e.g.) arbitrator #1 will hear the first requested appeal, arbitrator #2 will hear the second requested appeal, etc. Once the sixth requested appeal is received the cycle will start over (e.g.) arbitrator #1 will hear the sixth requested appeal, arbitrator #2 will hear the seventh requested appeal, and so on.

The Director of Personnel Services or his/her designee will contact the agreed upon arbitrator to coordinate with the parties involved to schedule a hearing as soon as possible.

ARBITRATION COSTS

The arbitrator shall be compensated up to a rate of Fifteen Hundred Dollars (\$1,500). The cost of the arbitrator shall be paid by the County. Costs of the court reporter, if any, shall be paid by the County.

### SCOPE OF ARBITRATOR'S AUTHORITY

The arbitrator shall have no power to alter, amend, add to or subtract from the provisions of this Article, any other terms of this Agreement or to Fresno County Personnel Rule 10 – Disciplinary Actions. If the arbitrator finds that none of the charges contained in the Order of Disciplinary Action are true, then he/she shall set aside the action taken by the appointing authority. If the arbitrator finds that one or all of the charges are true, then he/she shall make a decision confirming or modifying the action of the appointing authority provided, however, that his/her authority to modify the appointing authority's action is limited to those disciplinary actions described in Section 10030 – Types of Disciplinary, of Fresno County Personnel Rule 10 – Disciplinary Actions. The arbitrator shall have no authority to increase the discipline imposed by the appointing authority.

Nothing shall preclude the arbitrator from ordering the reinstatement of an employee with or without back pay.

The decision of the arbitrator shall be final and binding, with the exception that the decision shall be subject to judicial review upon petition by the employee or the department head under the terms and conditions provided by law as set out in Civil Code of Procedure 1094.6.

### PROCEEDINGS

The arbitrator, attorney or other representative of a party may issue subpoenas.

A pre-hearing conference with the arbitrator and the parties shall be set on the day of the hearing immediately preceding the hearing. The purpose of the conference is to stipulate to uncontested facts and documents; to review the process and conduct of the hearing; and to identify any potential problems.

Except as provided in Fresno County Ordinance 3.12.070, the parties have the right to be represented by the person of their choice.

The parties shall have the right to: call and examine witnesses; introduce exhibits; cross-examine opposing witnesses; impeach any witness; and to rebut the evidence against them. If either party does not testify in her/his own behalf, he/she may be called and examined as if under cross-examination.

Oral evidence shall only be taken on oath or affirmation.

### REPORT OF HEARING

The arbitrator shall render his/her report to the parties in writing, including reasons for the decision, within thirty (30) calendar days of the completion of the hearing. Failure to comply with this provision shall result in the automatic waiver of the arbitration fee.

### ARBITRABILITY

If either the County or the Union claim before the arbitrator that a particular request for arbitration fails to meet time limits, or is in some other manner defective, and thereby, fails to meet the tests of arbitrability, the arbitrator shall proceed to decide such issue before hearing the case upon its merits.

### REMOVAL OF ARBITRATOR FROM PANEL

An arbitrator may be removed from the panel upon mutual agreement between the County of Fresno and SEIU – Local 535. If an arbitrator is removed from the panel, a replacement will be added to the panel upon mutual agreement of the parties.

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING FOR  
SEIU – LOCAL 535, UNITS 3, 4, 12, 22 & 36  
(MOU Term: October 25, 2004 through October 30, 2011)  
COUNTY POLLWORKER PROGRAM

The County of Fresno and SEIU – Local 535, having met and conferred, agree to the following Addendum in regards to the establishment of a County Pollworker Program:

I. Purpose

The County Pollworker Program would permit County employees to volunteer for deployment from their regular County Department to the County Clerk/Registrar of Voter's Office on Election Day. This program will not only provide County employees an opportunity to support our communities, but will also help alleviate critical pollworker shortages. Additionally, no employee may be coerced or pressured to volunteer under any circumstances. The decision to volunteer as a Precinct Officer is expressly a reserved right of the employee.

II. Program Specifics

A. County employees who volunteer their service as Precinct Officers on Election Day, must meet the following conditions:

1. Be a County of Fresno employee in a permanently allocated position;
2. Be a registered voter; and
3. Have the approval of his/her department head.

B. County employees will not be required to use their accumulated leave balances; however, they will be paid their normal salary, including differentials and any other compensation they would have received as if they were reporting for a regular workday. Such duty will be alternatively served in the County Clerk/Registrar of Voter's Office.

C. In addition to receiving their normal salary/benefits as described above, County employees will receive the same stipend as other community volunteer Precinct Officers in lieu of:

1. Overtime as defined in the Overtime Articles of the above referenced Memorandum of Understanding; and
2. Shift Differential/Shift Premium as defined in the Shift Differential/Shift Premium Articles of the above referenced Memorandum of Understanding for employees who do not receive this differential as part of their regularly scheduled work shift.

- D. Prior to volunteer service as a Precinct Officer, County employees will be required to attend a mandatory training session conducted by the County Clerk/Registrar of Voter's Office. The training session is approximately two (2) hours long and will be scheduled at a time determined by the County Clerk/Registrar of Voter's Office.
- E. County employees will receive their Election Day stipend at the same time as it is processed for other community volunteers (generally within 4-6 weeks of the Election Day).
- F. All in-force Memorandum of Understanding provisions not modified by this agreement shall remain in effect.

ADDENDUM  
TO MEMORANDA OF UNDERSTANDING  
SEIU – LOCAL 535, UNITS 2, 3, 4, 12, 22, 31 & 36  
HEALTH BENEFIT AGREEMENT

**The parties have met and conferred regarding the County's health premium contribution for Plan Year 2006. Having met and conferred, the parties agree to the following:**

1. The term of this agreement shall be December 19, 2005 through December 17, 2006. The parties agree to reopen negotiations in August 2006.
2. A minimum of three (3) health benefit plans, two (2) dental benefit plans and one (1) vision benefit plan will be available to employees and their dependents during Plan Year 2006. If, during the term of this agreement, any of the health benefit plans, vision benefit plan or the dental benefit plan is unable to fulfill its contractual obligation, the parties agree that the County, upon consultation with the Health Benefits Advisory Council, if necessary, will secure a suitable replacement.
3. During Plan Year 2006, the County will contribute, on behalf of each employee; up to \$208.06 per pay period based on the employee's plan selection (employees will not receive any excess contribution).

The County will further contribute on behalf of employees who have dependents enrolled in the County's health benefits program, a total of \$90.00 per pay period.

4. Any individual participating in the County's Health Benefit program must enroll in one of the plans servicing their area, if one is available. If a plan is not available, they shall enroll in the plan designated for out-of-area coverage.
5. Following a written request by the employee to the County's Employee Benefits Office and subject to the approval of the health plan providers, in the event an employee's doctor moves to a physician network that can only be accessed through another County offered health plan, the employee may re-enroll into that health plan. The change will become effective the first day of the pay period following approval by the health plans.
6. If during the term of this agreement the State, Federal government, or any other taxing authority imposes a tax or other charges (excluding a tax on or measured by net income) upon any group provider or health/dental plan or upon any activity of any of them, or if any such tax or charges are increased causing agreement between the County and health/dental plans to be opened for renegotiations, either the County or the employee organization may request the other party to meet and confer regarding the terms and conditions set forth herein.

7. If during the term of this agreement the State or Federal government legislates mandatory benefit levels in excess of those covered by agreement between the County and health/dental plans which results in increased premiums, either the County or the employee organization may request the other party to meet and confer regarding the terms and conditions set forth herein.
8. During the term of this agreement, if the County agrees to a higher employer contribution with any other bargaining unit, the same higher contribution shall be offered to employees covered by this agreement with the same terms and conditions, subject to approval by the Board of Supervisors.
9. The parties agree to continue to meet and discuss the design of the County's health benefit program in anticipation of soliciting health plan proposals from vendors for Plan Year 2007.
10. The parties agree to explore the viability of allowing employees with other non-County health coverage to opt out of the County health insurance program as part of the Plan Year 2007 Request for Proposal process.