

**MEMORANDUM OF UNDERSTANDING**

**KERN LAW ENFORCEMENT ASSOCIATION**

**&**

**THE COUNTY OF KERN**

**July 1, 2006– June 30, 2009**

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# **KERN LAW ENFORCEMENT ASSOCIATION**

**July 1, 2006 – June 30, 2009**

## **ARTICLE I - General Provisions**

### Section 1. Purpose

This Memorandum of Understanding, hereinafter referred to as “MOU”, entered into by the County of Kern, hereinafter referred to as “COUNTY”, and the Kern Law Enforcement Association, hereinafter referred to as “UNION”, has as its purpose the setting forth of the full and entire understanding of the parties regarding the matters set forth herein, reached as the result of good faith negotiations regarding the wages, hours, and other terms and conditions of employment of the employees covered hereby. Pursuant to Government Code section 3505.1, this MOU is jointly submitted to County's Board of Supervisors and recommended for approval.

### Section 2. Full Understanding, Modifications, Waiver

- A. This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or MOUs by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.
- B. Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right and agrees that the other shall not be required to negotiate with respect to any subject or matter covered herein during the term of this Memorandum of Understanding.
- C. No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if not required, approved and implemented by the County's Board of Supervisors.
- D. The waiver or breach of any term or condition of this Memorandum of Understanding by either party shall not constitute a precedent in future enforcement of all its terms and provisions.
- E. Existing practices and/or benefits within the scope of representation per Meyers-Milias-Brown Act (Government Code §3500, et seq.), which are not referenced in this Memorandum of Understanding, shall continue without change unless modified or abolished pursuant to the meet and confer process.

### Section 3. Recognition

The County recognizes the Kern Law Enforcement Association (Union) as the employee organization certified by the Board of Supervisors, pursuant to Employer-Employee Relations Resolution No. 84-166, and the Meyers-Milias-Brown Act (Gov. Code §3500 et seq.), and any amendments thereto.

The Kern Law Enforcement Association (Union) is certified to represent its members. The terms and conditions of this MOU shall apply to all permanent and probationary full-time and part-time employees in the classifications listed below.

- A. Supervisory Law Enforcement Unit
  - Sheriff Sergeant classes
  - District Attorney Lieutenant
  
- B. Law Enforcement Unit
  - Deputy Sheriff classes
  - Senior Deputy Sheriff classes
  - District Attorney Investigator I/II/III

It is further understood that any employee may, to the extent permitted by law, to represent themselves individually in their employment relations with the County.

Section 4. Authorized Agents

For purposes of administering the terms and provisions of the MOU:

- A. County's principal authorized agent shall be the County Administrative Officer, or his duly authorized representative (Address: 1115 Truxtun Avenue, Bakersfield, California 93301; Telephone: 868-3198), except where a particular management representative is specifically designated in connection with the performance of a specified function or obligation set forth herein.
  
- B. The Union's principal authorized agent shall be the President of KLEA, or his duly authorized representative (Address: 3417 Pegasus Drive, P.O. Box 82516, 93380-2516; Telephone: 392-4430).

Section 5. Strikes and Lockouts

During the term of this MOU, County agrees that it will not lock out employees, and Union agrees that it will not engage in, encourage, or approve any strike, slowdown, sickout or other work stoppage growing out of any dispute relating to the terms of the MOU. Union will take whatever possible lawful steps necessary to prevent any interruption of work in violation of this MOU, recognizing with County that all matters of controversy within the scope of the MOU shall be settled by established grievance procedures.

**ARTICLE II – Rights of Parties**

Section 1. Employee Rights

- A. To the extent permitted by the Meyers-Milias-Brown Act, all employees of the County of Kern shall have the right to form, join, and participate in the activities of an employee organization of their own choosing, for the purpose of representation on matters of employer-employee relations.
  
- B. Employees shall also have the right to refuse to join or participate in any employee organization.
  
- C. No person, in the County or Union, shall directly or indirectly interfere with, restrain, coerce, or discriminate against any employee or group of employees in the free exercise of their right to organize and designate representatives of their own choosing for the

purpose of collective bargaining in accordance with the Meyers-Milias-Brown Act, or in the free exercise of any other right under this MOU.

- D. The provisions of this MOU shall be applied equally to all employees without discrimination as to age, sex, disability, marital status, religion, race, color, creed, or national origin.
- E. Any reference in this document to gender is to be construed as applying to both female and male employees.
- F. No person shall directly or indirectly interfere with, restrain, coerce, or discriminate against any employee in the free and lawful exercise of their right of free speech except when acting as an agent or employee of the Sheriff-Coroner or the District Attorney in areas deemed confidential by law.
- G. The County agrees that an employee may review or authorize his/her designated representative to review his/her official personnel files at the Personnel Department upon written request.
- H. The policy of the Sheriff-Coroner shall continue to be that all internal affairs investigations shall be conducted in a professional, timely and reasonable manner. All legal requirements for such investigations will be adhered to, and the confidentiality of all information will be maintained within the boundaries of the legal restraints applicable to personnel actions.

## Section 2. Rights of Employee Organization

- A. To assure the Union's full exercise of their representation rights, the Union will, except in cases of emergency, be given reasonable notice of:
  - 1. Any new or revised ordinance, resolution, rule or regulation to be proposed for adoption by the Board of Supervisors, Civil Service Commission, or other boards, which relate to matters within the scope of representation.
  - 2. Any new or revised written policy to be proposed for adoption by the department head, which relates to matters within the scope of representation.
  - 3. In those cases where the County or department head exercises their emergency powers, the County or department head will meet with the Union at its first opportunity.
- B. The Union shall be entitled the use of reasonable space, designated by the County, on departmental bulletin boards to post notices pertinent to their membership. Such material offered for posting by the Union shall be submitted to the department head, or designee, for the purpose of keeping the department informed of notices which will appear on the board.
- C. The Union shall be entitled to the use of County meeting facilities on the same basis as other organizations.
- D. The Union shall have reasonable use of County communications facilities for distribution of material, provided such distribution does not interfere with official business, and prior approval of the County Administrative Officer is obtained.

- E. The County will provide the Association notice of all “Sheriff’s Personnel Orders” affecting employees within the bargaining unit as soon as said orders are issued. “Personnel Orders” shall be defined as all written transfer orders and promotion notices.

Section 3. Management Rights

- A. The County and its management representatives shall retain all customary rights, powers, functions and authority consistent with State law, County ordinances, and rules of the Civil Service Commission, including, but not limited to, the right to:
  - 1. Determine the mission of its constituent departments, commissions and boards;
  - 2. Set standards of service;
  - 3. Engage in all types of personnel transactions and disciplinary proceedings in accordance with County ordinances and Civil Service rules;
  - 4. Plan for and direct the work force toward the organizational goals of County government;
  - 5. Effect a reduction in authorized positions because of lack of work, or for other legitimate reasons;
  - 6. Determine work methods, number and classifications of personnel, and types of equipment required to accomplish an objective;
  - 7. Take any necessary actions to carry out its mission in emergencies;
  - 8. Exclude the following employees from exercising any role in any employee organization, other than membership (including payroll deduction):
    - a. Managerial employees who serve as department heads and assistant department heads, and heads of operational divisions when such division serves in a quasi-departmental status.
    - b. Employees having a confidential relationship with the Board of Supervisors, County Administrative Officer, Director of Personnel, and County Counsel. Such excluded employees shall not exceed two percent (2%) of the permanent work force. Excluded employees may not represent any employee organization, which represents other County employees on matters within the scope of representation.
  - 9. Modify, supplement or otherwise change this MOU to reflect present and future State law and local ordinance, after consultation with employee organization representatives.
  - 10. The exercise and retention of such rights does not preclude employees or their representatives from consulting or presenting grievances about the practical consequences that decisions on these matters may have upon wages, hours, and other terms and conditions of employment.

B. Departmental Reassignments:

1. The Union agrees that the Sheriff-Coroner and the District Attorney have the right to reassign personnel in their respective departments based on their discretion.
2. An employee departmentally reassigned by operation of this section has the right, under California Government Code §3300, et seq., to appeal any alleged punitive action at an administrative hearing. An administrative hearing for this purpose is a hearing held by a senior officer within the Sheriff's Department at the rank of Chief Deputy or above or, for District Attorney Investigators and Lieutenants, a hearing held by the Assistant District Attorney or his designee. This administrative hearing procedure is separate and apart from the grievance procedure.
3. No such protested departmental reassignment shall take effect until such time as the employee has had his/her administrative hearing.
4. When the department effects a departmental reassignment, the department will afford due consideration to the financial impact such reassignment may have upon the employee, prior to the completion of the reassignment.

Section 4. Release Time for Union Representatives

- A. Union officers (i.e., President, Vice President, Secretary, Treasurer) will be granted reasonable use of County time to perform their duties.
  1. The Union President or, in his/her absence, the Vice President will be allowed up to one day of release time per week for Union business. If circumstances warrant, more time may be provided.
- B. Any employee holding the Union office of director may be allowed reasonable use of County time to attend official Union Board meetings, if the meetings occur during their normal work hours.
- C. Employees who serve as designated members of the Union's meet and confer team will be allowed reasonable use of County time when meeting with the County on successor MOUs or on other meet and confer matters within the scope of representation. Three months prior to the expiration of the current MOU, members of the meet and confer team may be allowed reasonable preparation time with appropriate notice to the affected supervisor.

Section 5. Payroll Deductions, Union Dues

A. Deductions

It is agreed that upon Board of Supervisors' approval, Union dues and other deductions as may be properly requested, and lawfully permitted, shall be deducted in accordance with the provisions of applicable State law on a biweekly basis by County from the salary of each employee within the unit who files with the County a written authorization requesting the deductions be made. Remittance of the aggregate amount of all Union deductions made from salaries of employees within the unit shall normally be made to the

Union by County within one week of the Tuesday pay day. The Union shall remit to the County 2 cents (\$.02) per Union dues deduction per biweekly pay period.

B. Representational Fees

1. Scope - Each Employee hired on or after September 8, 1992 into Bargaining Unit L shall either (1) become a member of the Union to the extent of rendering periodic dues uniformly required for membership, or (2) pay to the Union a biweekly representational fee. Such representational fee shall be an amount uniformly established by the Union's Board of Directors, but in no event shall such representational fee exceed 90% of the amount that a Union member of the same salary level would pay in dues.
2. Indemnification - The Union shall indemnify the County and hold it harmless against any and all suits, claims, demands or other liabilities including the County's reasonable attorney fees, that may arise out of or by reason of any action taken by the County for purposes of complying with this section.
3. Authority - This section was implemented in accordance with Government Code Section 3502.5 and the Union agrees to adhere to all statutory and judicial requirements relating to Representational Fee Agreements. Specifically:
  - a. The Union agrees to keep an adequate itemized record of its financial transactions and shall make a financial statement, in the form of a balance sheet and an operating statement certified as to accuracy by the Union's Board of Directors and a Certified Public Accountant licensed in the State of California, available annually (within sixty (60) days after the end of its Fiscal Year) to the County.
  - b. The Union further agrees to hold any disputed fees in their entirety in an escrow account to be maintained at the Kern Federal Credit Union, 1717 Truxtun Avenue, Bakersfield, California, pending resolution of the dispute pursuant to the Complaint Procedure outlined below.
4. Complaint Procedure
  - a. This complaint procedure shall be utilized solely to resolve disputes arising out of the deduction of a representational fee by the County pursuant to this negotiated MOU:
    - i. Issues subject to this complaint procedure shall be limited to the following:
      1. That a portion of the representational fee deduction is being utilized for non-representational activities.
      2. That the non-member is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee unions.
    - ii. In the event that it is determined, pursuant to this procedure, that such non-member is a member of such religion, body or sect,

they may, in the alternative, designate a charitable fund from the list of United Way charities.

- iii. The County agrees to deduct and to remit fees so designated to the United Way.
- b. Any non-member who objects to the deduction of the Representational Fee by the Union shall file a written complaint with the Union. The complaint shall specify the reason(s) for the objection to the deduction. The complaint must clearly state the basis for the objection.
  - i. Any employee who objects to the deduction of the Representational Fee shall forward their written complaint to the Union within thirty (30) calendar days after the fee is initially deducted.
  - ii. Upon receipt of the written complaint, the Union shall place the entire amount of the disputed deduction into an escrow account pending resolution of the dispute and shall request a list of five (5) arbitrators from the State Mediation and Conciliation Service (SMCS).
- c. Selection of the Arbitrator - The arbitrator shall be selected by the alternate striking of the names provided by SMCS.
- d. Date for Hearing - The union shall notify SMCS of the selected arbitrator within five (5) calendar days of the selection. Upon confirmation by the arbitrator, the Union will, forthwith, notify the complainant of the date, time and location of the complaint hearing.
- e. Payment of Costs - The arbitrator will be directed to specifically determine which party has prevailed. In the event the Union prevails in said arbitration, the cost of the arbitration shall be shared equally between the Union and the complainant. Should the Complainant prevail, the Union shall pay the entire cost of the arbitration.
- f. Effect of the Arbitrator's Decision - The decisions of the arbitrator shall be final and binding. Upon receipt of the Arbitrator's decision, fees being held in escrow shall be disbursed by the Union in accordance with said decision. In the event that the Union Prevails, the County shall continue to deduct the Representational Fees and remit same to the Union as determined by the arbitrator.

#### Section 6. Access to Information

The County shall provide the Union upon request, in a timely fashion, the following material:

Agendas of the Board of Supervisors' meetings  
Agendas of Retirement Board meetings  
Agendas of Civil Service Commission meetings  
Notice of Special Meetings of the Civil Service Commission  
Kern County Personnel Department job bulletins regarding classified positions within the Union's scope of representation

To the extent permitted by law, the Sheriff's Department shall provide to KLEA the names and addresses of employees working in classifications represented by KLEA on a monthly basis in accordance with existing Sheriff's Department opt out administrative procedures.

Such material shall be provided to the Union at no cost.

Section 7. Access to Employee Orientation

- A. Union representative will be allowed to attend and participate at all new Deputy Sheriff orientation sessions conducted by the Sheriff-Coroner.

**ARTICLE III - Salaries**

Section 1. Salaries

- A. Effective with the first day of pay period, #2006-14 (July 7, 2006), the base salary for all represented classes will retroactively increase by approximately 4% (.8 salary ranges). Notwithstanding the foregoing, the retroactive salary payment above shall only be paid to employees who: (a) on or after the date the Board approves this MOU, are on the County payroll and (b) held a permanent position on or after July 7, 2006.
- B. Effective with the first day of pay period 2007-14 (July 7, 2007), the base salary for all represented classes will increase by approximately 4% (.8 salary ranges)
- C. Notwithstanding the foregoing, retroactive salary payment above shall only be paid to employees who: (a) on or after the date the Board approves this MOU, are on the County payroll and (b) held a permanent position on or after July 7, 2007.
- D. Effective with the first day of pay period 2008-01 (January 5, 2008), an F-step will added to the evaluation and salary range system for all represented positions as provided in the Resolution adopted concurrently with this MOU. The F-Step shall be administered consistent with the administration of Steps A through E which are described in Chapter 3.08 of the Kern County Ordinance Code except that on January 5, 2008 all employees who: (a) have completed a year of continuous service in Step E of such position and (b) have a "standard" or better on the employee's most recent employee performance review ("EPR") shall advance to F Step regardless of the employee's anniversary date.
- D. Effective with the first day of pay period 2008-14 (July 5, 2008), the base salary for all represented classes will increase by approximately 4% (.8 salary range).
- E. Employees with 30 or more years of service will receive 2% longevity pay on base wages. As used in this subsection, the term "years of service" shall mean years of service for the County of Kern as calculated by the Kern County Employees' Retirement Board in determining eligibility for retirement.

Section 2. Certification Pay

- A. The above classifications designated with a "C" are for employees who possess a POST Intermediate Certificate issued by the State of California. Premium pay for possession of an Intermediate certificate is 5% of base salary.

- B. As noted in subsection 1 above, the above classifications designated with a "C-A" are for employees who possess a POST Advanced Certificate issued by the State of California. Premium pay for possession of an Advanced Certificate will be, 7% of base salary.
- C. For purposes of this section only, an employee shall be entitled to certification pay once the employee has met the established educational and length of service requirements and the department has approved and submitted the application to the State POST Commission for processing. Employees who possess both an Intermediate and Advanced POST certificate shall be compensated a total of 12 % of base salary (i.e. 5% pursuant to Section A plus 7% pursuant to Section B, above).

Section 3. Shift Differential

Effective on the first day of the first biweekly payroll period following approval by the Board of Supervisors of this MOU, the County will pay shift differential pay of 7.5% of base pay for any time actually worked between 9:00 PM and 7:00 AM.

**ARTICLE IV – Premium Pay**

Section 1. Overtime Policy

- A. Rate - The parties agree to compensate employees at the rate of one and one-half (1½) times their regular rate of pay for all hours worked in excess of:
  - 1. Eight (8) hours, for employees normally assigned an eight-hour shift;
  - 2. Ten (10) hours, for employees normally assigned an ten-hour shift;
  - 3. More than forty (40) hours in a seven-day work period.

Notwithstanding the other provisions of this MOU and in accordance with existing practice, employees working twelve-hour shifts shall be compensated at the rate of one and one-half times their regular rate of pay for all hours worked in excess of twelve (12) hours a day and eighty (80) hours a pay period and shall have four hours of built in overtime as such employees are scheduled to work thirty six (36) hours in one week and forty eight (48) hours during the other week of each pay period.

- B. Hours Worked - Holidays and all paid leave time, including, but not limited to, Sick Leave, Vacation, Compensatory Time-off, and Jury Duty will count as hours worked for the purpose of computing overtime.
- C. The time spent taking Kern County Civil Service examinations will count as hours worked when the examination occurs during the employee’s scheduled work hours.
- D. Employees will be compensated for the time worked for official phone calls, taken or made off-duty. Time spent in such activity that is less than 10 minutes is considered as being de-minimis and not compensable.
- E. This MOU shall not effect the side letter (#942-2006), approved September 26, 2006, between the County and KLEA which shall remain in effect in accordance with its terms.

Section 2. Compensatory Time-Off (CTO) Policy

- A. An employee authorized to use accumulated CTO or vacation shall not be entitled to compensation for overtime pay for the period of time while on paid leave.

- B. Represented employees, in the Sheriff's Department, may accumulate a maximum of up to eighty (80) hours of compensatory time off (CTO) credit at any one time.
- C. Represented employees, in the Sheriff's Department, with less than eighty (80) hours accumulated CTO credit may request compensation for overtime worked in the form of either pay or CTO at the employee's option.
- D. Once a represented employee has accumulated eighty (80) hours of CTO credit, any overtime worked will be compensated for with paid overtime regardless of the employee's preference.
- E. If a represented employee has accumulated eighty (80) hours of CTO credit, he/she may use these credits in accordance with current departmental procedures.
- F. At such time that the employee uses all or any part of his/her eighty (80) hours of CTO credit, any overtime worked will again be compensated with either pay or CTO at the employee's option.
- G. Effective on the first day of the first payroll period following the day the Board of Supervisors approves this MOU, the maximum amount of CTO accrual shall increase from eighty (80) hours to one hundred (100) hours and, accordingly, on that date, the number of hours referenced in subsections "B" through "F" above shall increase from eighty (80) hours to one hundred (100) hours.
- H. All overtime reported on a single date will be compensated for in a single fashion, and no employee will split this time for partial compensation by pay and partial compensation by CTO.
- I. Overtime pay will be paid within two pay periods after being reported.

Section 3. Overtime Allocation

- A. The County shall maintain a roster of volunteer personnel covered by this MOU who have submitted their names in the Sheriff's Office to equitably distribute the following categories of paid overtime as described in subsection B below:

***CATEGORY ONE:***

Non-Regular Duty Paid Overtime Assignments. "Non-public events that require additional manpower in an overtime status during the term of the MOU year." The following are examples:

1. Transportation
  2. Hospital guard
- B. Persons delegated the responsibility for each assignment shall be required to offer overtime equitably to all interested employees covered by this MOU. Notwithstanding the foregoing, after all employees referenced in the list established under Section 3 A (above) have been queried (and that list has been exhausted) if no employee(s) on the list is available, the Sheriff may utilize detention officers for such overtime assignments.

***CATEGORY TWO:***

Non-Regular Duty - Special Assignments. "Public events that require additional manpower during the MOU year." Examples are, but are not necessarily limited to the County Fair, contract assignments, and VIP Security assignments.

The County will solicit the transmittal of Overtime Request Forms in January and July of each calendar year. A roster will be compiled relative to specific overtime events. The request forms shall include the specific event for which the employee is volunteering. Persons delegated the administrative responsibility for each event shall be provided with the personnel roster, relative to the event, for equitable distribution of available overtime assignments. An employee who is deemed to be unavailable for the assignment shall be removed from the top of the roster and placed at the bottom for later consideration and to promote equitable distribution.

Section 4. Call in Pay

Any employee called in to work, including but not limited to an employee required to appear for a court appearance during off-duty hours, shall be compensated a minimum of two (2) hours at the overtime rate.

Section 5. Stand-by Pay & Availability Pay

A. Standby–

1. Definition of Standby – An employee who is required during off-duty hours to remain on call on the County’s premises or elsewhere or under conditions so circumscribed that he cannot use the time effectively for his own purposes is working while “on-call.” Employees who are working while “on-call” are on “standby.” An employee who is not required to remain on the County’s premises or elsewhere and is merely required to leave word at his home or with County officials where he may be reached, or is merely required to be available via a beeper, pager or other communications device, is not working while “on-call” and is not on “standby.” This definition of “standby” is intended to be the same definition as “working while ‘on-call’” which is contained in 29 CFR § 785.17 and to duplicate the definition of compensable standby (i.e., working while “on-call”) found in the Fair Labor Standards Act as it is presently interpreted.
2. Although Article IV, Section 5(A)(1) defines standby to include employees who are required during off-duty hours to remain on call on the County premises, neither the Sheriff nor the District Attorney intend to require employees who are on standby to be physically present on the County premises.
3. Compensation for Standby – An employee required by the department head to be on standby shall receive one-quarter (1/4) of his regular straight time rate of pay, or the minimum wage, whichever is higher, for all hours he is required to be on standby. Employees who are called back to work shall not receive standby pay while in a called back status except as indicated in subsection (a)(i) below, but shall receive standby pay for all hours actually on standby in addition to any applicable minimum call-in payments dues under this MOU.
  - a. Court Standby –
    - i. On Employee’s Regular Day Off -

Employees required to remain on court stand-by on their regular day off, shall receive a minimum of seven (7) hours of stand-by pay. The seven hours of standby is intended to compensate the employee for being on standby from 8:00 a.m. to 3:00 p.m. An employee shall not be entitled to more than seven hours of court standby unless the employee is advised to remain on standby after 3:00 p.m.

- ii. Other Court Standby -  
Employees required to remain on court stand-by on other than their regular day off, shall be compensated in accordance with Article IV, Section 5(A)(3) above.

B. Availability Pay –

It is agreed by the parties that the Sheriff's safety employees in the work units of Homicide, Narcotics, Search & Rescue, the Air unit, and the District Attorney Call-Out Response Team (aka Asset Forfeiture Rollout Team and/or Investigations Critical Response Team), are frequently required to respond to emergency or urgent situations during off-duty hours. Such employees shall be required to wear a pager, beeper or other communications device to ensure their availability. Neither the Sheriff's Department nor The District Attorney's Office shall impose conditions, in addition to those listed herein, which so restrict the employee that the employee is on "standby", as defined in Article IV, Section 5 (A)(1) above, unless the employee is placed on standby by the department head. The employees in these units will continue to be eligible for Court stand-by and stand-by for extraordinary events requiring department-wide stand-by. These employees will be compensated for their continued availability as follows:

1. The supervisors of the identified units will establish rotational lists of employees (or, when appropriate, teams of employees) who are expected to be available for call-out in the event of an urgent or emergency situation.
  - a. The employee (or team of employees) at the top of the list will be expected to remain accessible by telephone or pager and be fit, and otherwise able to report to duty if called.
  - b. The rotational period for lists will normally be no longer than a seven-day period. However, when necessary, a supervisor may deviate from this practice in order to accommodate the scheduling of paid leave.
  - c. The employee (or team of employees) not at the top of the list are not required to be available for call-out, but may be called-out if circumstances warrant the response of additional personnel.
2. As compensation for this availability, all employees assigned to the above listed work units will receive a flat rate special allowance in an amount equal to 5% of their individual base salary.

Article IV, Section 5 is intended to govern all of the standby and availability pay rights of the employees covered by this MOU. None of the Ordinance Code provisions relating to standby or availability pay shall apply to those employees.

#### Section 6. Canine Care

Employees assigned to maintain Sheriff's canines in their homes will receive additional pay equal to 5% of their base salary in full compensation for those hours spent in the home-care of their assigned animals. This compensation is agreed to satisfy any alleged requirements of the Fair Labor Standards Act in that it represents appropriate compensation for fluctuating, unsupervised and unrecorded compensable hours of work.

#### Section 7. Swat Team Pay

- A. Effective the first day of the first payroll period following approval of this MOU by the Board of Supervisors, compensation for SWAT members will change from a flat rate to an assignment pay of 5% of base pay. In addition, on that date, the members of the Crisis Negotiation Team shall become eligible for that assignment pay. SWAT Team Pay shall only be paid to employees during the period of time the employee is on the SWAT Team or Crisis Negotiation Team and shall stop upon removal from the applicable team.
- B. Nothing in this provision should be interpreted to fulfill or supersede any obligation for stand-by pay that might exist pursuant to this MOU.

#### Section 8. Field Training Officers

- A. In the event the Sheriff's Department begins a Field Training Officer program, the Department will assign, at the Sheriff-Coroner's discretion, a necessary number of personnel to serve as Field Training Officers (FTOs).
- B. During their assignment to the FTO Program, employees assigned as FTOs will receive "Special Allowance Pay" equal to 5% of their base salary.

#### Section 9. Bomb Detail

Employees assigned to the Bomb Detail will be compensated by "Special Allowance Pay" at a bi-weekly rate equal to 5% of their bi-weekly base pay.

#### Section 10. Remote Assignment Availability Pay

As availability compensation for employees assigned to the Glennville and Walker Basin substations as resident Deputies, a premium of 5% of their base pay will be paid. While these employees will wear a pager during off-duty hours, it is understood that they are not necessarily on stand-by, (unless so ordered under Section 5A of this Article) and will not be subject to discipline if not reachable during off-duty hours, unless specifically designated as being on stand-by.

#### Section 11. Bilingual Pay

In accordance with Section 422 of the Kern County Administrative Manual, bilingual pay of \$25 per pay period will be paid to eligible employees assigned to a designated position requiring bilingual skills.

## ARTICLE V - Uniforms

### Section 1. Uniform Allowance

- A. Effective with the uniform allowance paid at payroll period 2007-12, uniform allowance will increase by \$50 to \$850 per year payable one-half at the completion of the 12th pay period, and one-half at the completion of the 25th pay period each fiscal year. Uniform allowance is paid retroactively not prospectively and will be prorated for any period of time in the preceding 13 bi-weekly payroll periods during which an employee was not employed, or was on leave of absence without pay.
- B. Effective with the uniform allowance paid at payroll period 2008-12, uniform allowance will increase by \$50 to \$900 per year.
- C. The County will continue to provide Sheriff's safety personnel with badges, patches, chevrons, time-service stripes, and nametags for the uniforms.
- D. The County will provide Sergeants with printed business cards indicating the employee's name and rank. Sworn personnel below the rank of Sergeant will be provided printed business cards indicating the employee's name, without reference to rank.
- E. The County will continue to provide all D.A. Investigators with off-duty badges and badge cases.
- F. Any changes adopted by the Board of Supervisors in the uniform regulations, which result in additional cost to the employee, will be paid for by the County.

#### G. Clothing Options

The officer in charge of any operation may authorize, subject to Sheriff-Coroner's discretion, the wearing of appropriate wash-and-wear clothing due to the job assigned, weather conditions, and any other unusual circumstance where damage, cleaning problems, or the need for clothing changes might occur.

#### H. Search and Rescue Uniform Clothing

In any instance where cold, inclement weather exists during search and rescue operations, the department shall provide, subject to Sheriff-Coroner's discretion, heavy-duty rain gear or parka costs, if necessary.

#### I. Proper Uniform

- 1. Employees assigned to Detective Division, Technical Investigations, Internal Affairs, or any other existing plainclothes assignment within the Sheriff's Office, shall be allowed, at the Sheriff-Coroner's discretion, the option of wearing neckties regardless of the time of year.
- 2. Officers required to wear uniforms shall, at the discretion of the Sheriff-Coroner, have the option of wearing a tie while on duty.
- 3. Neckties shall be worn during Departmental Class "A" inspections and during court appearances.

- J. Employees designated by the Sheriff-Coroner as official members of the Sheriff's Special Weapons and Tactics Team (SWAT) will be compensated at the rate of an additional \$25 per month. The total membership of The Sheriff's SWAT Team shall not exceed 20 officers unless previous specific approval is granted by the Board of Supervisors.

## Section 2. Safety Equipment

- A. The County will provide safety employees of the Sheriff's Department the following required safety equipment:
- Service Weapon
  - Flashlight (including batteries, bulbs)
  - Ammunition, gun belt, holster, pouches and related leather goods
  - Off-duty holster
  - Raincoat
  - Handcuffs
  - Badge
  - Baton
  - Protective ballistic body armor
  - Chemical agent
  - Helmet and face shield
  - Airway Mask
- B. The County shall replace required County safety equipment which has become unserviceable and shall replace all protective ballistic body armor no later than one hundred eighty (180) days after the expiration of any manufacturer's warranty regarding the fitness of the product to perform its intended function.
- C. Employees may provide their own safety equipment at their own expense, provided that the equipment meets the standards of the department. All safety equipment provided by the County shall remain the property of the County. Employees shall be responsible for loss or damage to such equipment due to their negligence. Upon employee's termination from County service or the commencement of terminal vacation, all County equipment shall be returned to the Sheriff's Department.
- D. It is agreed that Section 318 of the Kern County Administrative Procedures Manual governs the, loss or damage of employees' personal property in the course of County employment except equipment purchased by the employee as provided for in Section C., above, will only be replaced with County equipment.
- E. The County shall make FAA approved clothing and safety equipment available for employees while on duty as a pilot or observer on either a helicopter or fixed wing aircraft.
- F. The County shall provide each patrol deputy with a pocket edition of the California Penal Code and shall provide updated versions of that book when deemed appropriate by the Sheriff.

## ARTICLE VI – Paid Leave

### Section 1. Holidays

- A. During the term of this Memorandum of Understanding, the following holiday schedule shall apply:

July 4th  
Labor Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Eve  
Christmas Day  
New Year's Eve  
New Year's Day  
Martin Luther King, Jr.'s Birthday (Third Monday in January)  
Washington's Birthday  
Memorial Day

1. Holidays, which fall on Saturday, shall be observed on the previous Friday.
2. Holidays which fall on Sunday shall be observed on the following Monday.
3. The actual holiday is defined as the day of the week upon which the holiday actually falls.
4. Designated holiday is defined as any day observed in-lieu of the actual holiday.
5. Holiday pay is defined as one and one half times the employee's regular hourly rate for each normally scheduled shift hours (i.e. 8, 10, 12, etc) worked on a holiday.
6. Employees regularly scheduled to work on the actual holiday will receive holiday pay in addition to their regular pay.
7. Employees regularly scheduled to work on the designated holiday will receive holiday pay in addition to their regular pay.
8. Employees shall not receive holiday pay for both the actual and the designated holiday.
9. Employees who are not regularly scheduled to work on either the actual holiday or the designated holiday shall receive CTO credit in an amount equal to the numbers of hours normally scheduled to work. If an employee who is not regularly scheduled to work either the actual holiday or a designated holiday is called to work, such employee shall be compensated in accordance with Chapter 3.24 of the Kern County Ordinance Code.
10. Holiday pay is to be provided as CTO or cash payment at the employee's option up to the 80 hour CTO cap. After the 80-hour CTO cap is reached, all holiday compensation will be paid in cash.

11. Holidays, which fall during an employee's vacation period, shall not be charged against the employee's vacation balance.

B. Assignments on Holidays

1. Employees regularly scheduled to work on the holiday shall be given priority in filling their normally scheduled shift.
2. In the event of a vacancy in filling the holiday staffing requirements, additional personnel shall be assigned from a roster of those qualified employees who have indicated a desire to work on the holiday. If there are more volunteers than slots, the vacancies will be filled on order of seniority.
3. In the event that an insufficient number of volunteers exist to fill holiday shift vacancies, the Sheriff-Coroner will assign duty to others within the same division based upon reverse order of seniority.

C. Court Holidays - Bailiffs

Employees assigned to work as Bailiffs or Court Guards will not be required to take vacation or CTO when the Court has a holiday that is not also a designated County holiday. Employees who remain on-duty will be reassigned to other duties normally assigned to Deputy Sheriff classifications for the day.

Section 2. Vacations

- A. The vacation entitlement for regular full-time employees covered by this MOU is:

- |                    |  |
|--------------------|--|
| 13 days (104 hrs.) | vacation after one (1) year of service.  |
| 18 days (144 hrs.) | vacation after five (5) years of service (new accrual rates begin at start of 5th year of service).              |
| 23 days (184 hrs.) | vacation after ten (10) years of service (new accrual rate begins at start of 10th year of service).             |
| 28 days (224 hrs.) | vacation after fifteen (15) years of service (new accrual rate begins at the start of the 15th year of service). |

- B. Effective the first day of the first payroll period following approval of the MOU by the Board of Supervisors, for the sole purpose of determining the rate of accrual for vacation and sick leave, prior service as a full time paid peace officer, with a California P.O.S.T. participating law enforcement agency, will be counted in determining the rate of accrual of vacation and sick leave. This provision will apply prospectively to all active and prospective employees.

- C. Financial Hardship. In the event an employee incurs a serious financial hardship as the result of family illness or death, the employee may make written request to his/her department head to cash-out any accrued vacation. Upon investigation, the department head may direct the claim to the Auditor-Controller for payment. Any disputes arising from the department head's denial of any claim for payment will be resolved by application of the Grievance and Arbitration Procedure.

- D. The granting of any vacation request by a department head or designated supervisor, shall be subject to the workload and staffing requirements of the department. Denials because of staffing and workload requirements shall not be grievable under the terms of this MOU. With respect to employees with maximum vacation accruals, if the employee has been denied a proper written request for a vacation and subsequently submits a second proper written request for a vacation for a different period of time, and that second request is denied, the employee shall, upon written request, be entitled to receive cash in an amount equal to the amount of vacation time the employee would have accrued while utilizing the vacation time if the second vacation request had been approved. The requests must conform to the scheduling policy of the department and/or the terms of this MOU.

Section 3. Sick Leave

A. Accrual

1. Each full time employee covered by this MOU shall accrue sick leave as follows:

<u>Years of Continuous Service</u>	<u>Bi-weekly Accrual</u>	<u>Days/Year</u>
0 through 5	2.46154 hours	8
6 or more	3.69231 hours	12

2. Effective the first day of the first payroll period following approval of the MOU by the Board of Supervisors, for the sole purpose of determining the rate of accrual for vacation and sick leave, prior service as a full time paid peace officer, with a California P.O.S.T. participating law enforcement agency, will be counted in determining the rate of accrual of vacation and sick leave. This provision will apply prospectively to all active and prospective employees.

B. Sick Leave Payoff Schedule

Applicable ONLY upon death or active retirement (deferred retirement excepted).

<u>Years of Continuous Service</u>	<u>Payoff Rate</u>
0 through 19	50%
20 through 24	75%
25 or more	100%

1. For the purposes of this subsection, "Continuous County Service" shall mean uninterrupted employment with the County of Kern. Authorized leaves of absence shall not be considered as a break in service.
2. The amount payable under this subsection shall be calculated based upon the employee's rate of compensation and years of continuous service at the time of retirement or death.

C. Sick Leave Bonus

Employees shall be eligible to receive an annual cash payment bonus equivalent to 24 hours at their regular rate of pay if on the pay day immediately preceding Christmas they

have accrued the maximum amount of unused sick leave (1152 hours) and have used ten hours (10), or less, of sick leave during the payroll periods during that calendar year.

#### Section 4. Jury Duty / Witness Duty

- A. Upon reasonable notice to the appropriate supervisor, all employees shall be entitled to time off without loss of pay to serve on a jury or when legally subpoenaed to appear as a witness in court, or before any tribunal, in connection with any matter regarding an event or transaction which he/she perceived in the course of his/her duties of County employment.
- B. Such paid time off shall include any actual and necessary travel time from the regular place of employment to the court or hearing place designated in the jury summons or subpoena and other paid time off relating to witness appearances which the County is required by law to pay.
- C. Unless otherwise specifically provided by minute order of the Board of Supervisors, all employees shall be responsible for demanding and collecting all fees and sums required by law to be paid in connection with such appearances and shall promptly pay over to the County all such amounts, together with any other sums, of whatever nature, received as a result of or in connection with such appearances; provided, however, that if the employee uses his/her own automobile he/she shall be entitled to retain any statutory mileage fees received in connection with such appearance.
- D. In the event an employee is legally subpoenaed to appear as a witness in a matter not related to his/her duties of County employment, the employee should be granted the use of leave time to comply to the directive of the subpoena.

#### Section 5. Vacation Donation Program for Catastrophic Conditions

- A. Catastrophic leave benefits have been established for county employees governed by this MOU who have exhausted all accumulated vacation, sick leave and compensatory time off ("CTO"). The purpose of those benefits is to provide a portion or all of an employee's pay during the time the employee would otherwise be on medical leave of absence without pay pursuant to the Kern County Civil Service Rules. Catastrophic leave benefits are contingent on the receipt of donated vacation time in the manner described below.
- B. Catastrophic leave shall conform to the rules for leave of absence without pay set forth in the Kern County Civil Service Rules except that, during that portion of the leave of absence, which is also "catastrophic leave", the employee will be paid. Although employees on catastrophic leave will receive catastrophic pay, for all other purposes, except as indicated below, such employees will be considered on leave of absence without pay pursuant to the Kern County Civil Service Rules and they shall not accrue any leave rights while on catastrophic leave.
- C. In no event may an employee take more than six (6) months of catastrophic leave during any twelve (12) month period. Catastrophic leave and leaves of absence without pay shall run concurrently.
- D. An employee is eligible for catastrophic leave when the employee faces financial hardship due to injury or prolonged illness of the employee or employee's spouse, parent

or child (based on medical evidence) and the employee is absent from work caring for himself or herself or family members.

- E. Employees governed by this MOU may donate vacation time to another employee who meets the conditions described above. Employees may not, however, donate sick leave or CTO.
- F. Employees (or their designees) requesting establishment of a catastrophic leave bank must submit a written request to the Personnel Department. The request must provide sufficient information to enable the Director of Personnel to determine whether the reason for the leave qualifies as catastrophic. This information will be maintained confidentially to the extent required by law. Catastrophic leave requests for injury/illness must include supporting medical verification from a licensed physician. If the request is for a family member, it should also specify that the employee's attendance of the ill or injured family member is required. Leave requests must include the estimated date of return to work.
- G. It is the responsibility of the employee or co-workers to canvass other employees for the donation of leave credits, however; donations are voluntary; coercion of fellow employees is strictly prohibited. Donations must be made on the County approved authorization form. All donations are irrevocable. Donations are taxable on the part of the recipient, in accordance with IRS regulations, and are subject to withholding as required by law.
- H. Donations must be a minimum of eight (8) hours. The County will convert the donor's vacation time hours to a dollar equivalent amount. Ninety percent (90%) of that dollar amount will then be converted to hours, using the recipient's hourly wage, resulting in hours applied to recipient's catastrophic pay.
- I. Health insurance coverage and retirement contributions will continue in the same manner as if the recipient employee was on sick leave. The recipient employee will not accrue sick leave or vacation benefits while using catastrophic leave.
- J. Catastrophic leave shall be terminated when one or more of the following occurs:
  - 1. The employee has exhausted six (6) months of catastrophic leave during any twelve (12) month period.
  - 2. The employee has exhausted all of his or her rights under the Civil Service Rules for unpaid medical leaves of absence, whether paid in part or in full from catastrophic leave pay.
  - 3. Donated leave credits have been exhausted.
  - 4. Death of the ill or injured employee or subject family member.
  - 5. The employee returns to full-time, active County employment.
- K. The Vacation Donation Program for Catastrophic Conditions shall be administered by the County in a manner consistent with the foregoing terms and conditions and consistent with law and Civil Service rules.

## ARTICLE VII - Benefits

### Section 1. Medical/Dental/Vision/Prescription Drug

- A. For all eligible employees hired prior to the first day of payroll period 97-14, who, at that time, were employed by the County in a permanent position in the classified service, County shall continue to pay 100% of the employee and dependent premiums for medical, dental and vision insurance.
- B. All eligible employees who were hired in a permanent position in the classified service on or subsequent to the first day of payroll period 97-14 (hereafter “new employees”), shall continue to be required to pay, by payroll deduction, twenty percent (20%) of the insurance premium for the employee’s medical, dental and vision insurance (hereafter collectively referred to as “health insurance”) except for new employees who decline the County’s health insurance coverage in accordance with the provision provided below. (All insurance premiums referenced in this subsection shall equal ninety-eight percent (98%) of the applicable COBRA premium.) New employees may decline coverage under the County’s health insurance provided that the employee executes a declaration, in a form acceptable to County, in which the employee: (i) declares that the employee has medical insurance coverage for the employee; and (ii) declines coverage under the County’s health insurance for the employee and the employee’s dependents. New employees who decline coverage may not enroll in the County’s health insurance program until the next open enrollment period. New employees who have not declined coverage shall have the option of obtaining County health insurance for the new employee’s dependents. In the event that such employees opt to obtain health insurance for dependents, the employee shall be required to pay, by payroll deduction, twenty percent (20%) of the appropriate premium for dependents. The health insurance program offered to new employees and their dependents shall consist of three components: medical, dental and vision. That program must be accepted or declined in its entirety. It is not permissible to pick and choose among those components.
- C. The County will continue to provide an annual open enrollment for employees to change dental plans or enroll eligible dependents.
- D. The County and the Union will continue utilizing the Health Benefits Committee to study and identify ways in which to improve insurance plans and contain costs.
- E. The health plan changed, effective July 1, 2004, to include the following provisions:
- Primary Care Physician (PCP) plan model.
- Plan members select an in-network PCP who acts as the “gatekeeper” for all in-network care.
  - In-network Office visit is \$15 for PCP visits and \$25 for Specialist visits.
  - \$100 outpatient surgery deductible.
  - ER co-payment of \$75 (waived if admitted).
  - In-network inpatient hospital co-payment of \$150 per day, \$750 maximum.
  - Inpatient treatment at Kern Medical Center provided w/no co-payment or other out of pocket costs for covered services.
  - Out of network care provided at 70% for usual customary charges, after annual deductible of \$200 individual, \$400 family and with an annual maximum out of pocket cost for usual customary services of \$2,000 per individual, \$4,000 per family.

- Implement prior authorization systems for specialist referrals and ancillary services, (e.g., outpatient treatment/tests, outpatient surgeries, MRIs, echocardiograms, and etc.).

F. The prescription drug plan will continue as follows:

1. CO-PAYMENTS: Structure of retail pharmacy co-payments to become:

- A. \$5 generic
- B. \$15 preferred brand where there is no generic equivalent
- C. \$30 non-preferred brand
- D. No provision for physician override of co-pay structure

2. FORMULARY CHANGES

A. Mandatory generic – In order to get brand name drugs when a generic equivalent is available, employee must pay the difference between what the plan would pay for the generic drug and the cost of the brand name drug.

B. The prescription formulary:

- i. Strictly limits retail prescriptions to 30-day supply.
- ii. Sets monthly limits on life-style drugs (e.g., Viagra) to FDA recommended levels.
- iii. Dispensing edits are applied per Rx Administrator's recommendations on such drug classes as migraine medications, pain management, anti-nausea, sleep aids, family planning, anti-fungals, and etc.
- iv. Contingent Therapy (sometimes called Step Therapy.) is applied. This program requires that other drug therapies have already been tried unsuccessfully for certain medications such as (but not limited to) Singular and Oxycontin. (The system automatically reviews previous claims history to make sure that the necessary criteria are met prior to adjudication.)
- v. All non-sedating antihistamines (e.g., Clarinex, Allegra) AND PPI's (e.g., Prilosec, Aciphex) are third tier

3. MAIL ORDER:

Mail Order co-payments continue at two times retail pharmacy, i.e., \$10, \$30, and \$60 for 90-day supply.

G. Retiree Health Premium Supplement Program

- 1. Effective July 1, 2006, the employee contribution rate was increased to 1.62% of base salary
- 2. Commencing with the fiscal year beginning on July 1, 2008 and in each subsequent fiscal year, the contribution rates for both employees and the County will increase at a percentage equal to the annual increase in the composite rate for the County health plan (i.e., the per capita composite rate used for County budget

purposes). If there is a decrease in the composite rate, the contribution rates will remain unchanged.

3. The parties agree to continue to exclude from the Premium Supplement Program those employees who, because of age at time of employment (45 years old and over), could never receive a benefit.
4. The Premium Supplement Program shall include the following: (a) the minimum qualifying criteria will change to age 50, with 20 years of County service, as defined in the plan document, and the benefit shall increase by ten percent (10%) per year of service so that 25 years of service will qualify for 100% of the available benefit; and (b) any employee with five or more years of County service who retires due to a service-connected disability pursuant to the County Employees' Retirement Law of 1937, and who is otherwise eligible, will become eligible for 100% of the available benefit regardless of age. No retroactive benefits shall be paid.

- F. Upon request of KLEA, the County agrees to reopen negotiations concerning alternatives to the County provided health insurance plan.

## Section 2. Effect of Leave of Absence without Pay on Health/Dental Plans

Employees on approved leaves of absences without pay for maternity, illness or disability shall continue to receive County health benefits, under the same conditions as existed before the leave or that exist under any plan-wide change to those benefits, for a period of six (6) full payroll periods, in addition to the payroll period in which the employee was first placed in a leave without pay ("LWOP") status, providing the employee continues to qualify for LWOP. At the end of the County's obligation stated above, the employee shall have the option of continuing coverage by paying the full payment of premiums at the COBRA rate. Upon return of the employee to paid status, the employee shall be covered by the County's health benefit plans providing the employee otherwise qualified for such coverage.

## Section 3. Retirement Plan

- A. The County agrees to continue safety retirement, with the retirement benefit formula contained in Government Code section 31664.1 (i.e., 3% @ age 50).
- B. The County agrees to continue Government Code 31727.7 for all retirement members, relating to non-job related disability benefits.
- C. Except for employees hired after the first day of the first payroll period following the adoption of this MOU, all permanent employees with five or more years of service shall not be required to pay any contributions to retirement and the County shall pay one hundred percent (100%) of those employees' normal contributions in accordance with Government Code sections 31630 and 31639.85.
- D. All employees hired prior to the first day of the first payroll period following the adoption of this MOU, (hereafter "current employees") who have not attained five years of service shall pay one hundred percent (100%) of their normal contributions to retirement as set forth in Resolution #2004-144 previously approved by the parties to this MOU and formally adopted by the Board of Supervisors on May 11, 2004, until they have attained five years of service, at which point those current employees shall no longer be required to make their normal contribution to retirement and the County shall pay one hundred percent (100%) of those

employees' normal contributions in accordance with Government Code sections 31630 and 31639.85.

- E. Employees hired on or after the first day of the first payroll period following the adoption of the MOU (hereafter "new employees") shall pay one hundred percent (100 %) of the new employees' normal contribution to retirement as set forth in Resolution #2004-144 previously approved by the parties to this MOU and formally adopted by the Board of Supervisors on May 11, 2004, regardless of their years of service.
- F. As used in this subsection "C", "D" and "E" above, the term "years of service" shall mean years of service, as calculated by the Kern County Employees' Retirement Association, in determining eligibility for retirement.
- G. In accordance with Government Code Section 31641.95, on April 15, 1997, the County Board of Supervisors adopted a resolution permitting employees to purchase retirement credit for all legally eligible prior public service. All purchases of retirement credit shall be in accordance with the rules and regulations of the Kern County Employees' Retirement Association and the Government Code.
- H. This MOU does not create a vested right to continue County payments of employee contributions or to purchase retirement credit for prior service that is independent of this or successor MOUs. Said terms and conditions will remain in full force and effect until final approval of a successor MOU or the parties reach impasse and exhaust all legally required impasse resolution procedures.
- I. Employees who, in good faith, have designated an effective date of retirement from County service may rollover their accumulated vacation and sick leave balances to the Kern County Employees' Retirement Association no earlier than three (3) months prior to the designated date of retirement. This rollover shall be for the express purpose of receiving credit in the KCERA retirement system for all legally eligible prior public service.
- J. In addition to the ability to roll-over accumulated vacation in the manner described in subsection "I" above, employees may also roll-over their accumulated vacation balance (only) for the express purpose of receiving credit in the KCERA retirement system for all legally eligible prior service one time during the employee's tenure as a County employee. The employee must submit a written request to his/her department head no later than April 1st prior to the fiscal year in which the employee intends to rollover such amounts. The department head may, in his/her sole discretion, waive the April 1st filing deadline for any employee.

#### Section 4. Employee Assistance Program

The County agrees to provide mental health services to all employees covered by this MOU through the County's Employee Assistance Program.

#### Section 5. Deferred Compensation

- A. The purpose of this plan is to extend to employees of the County certain benefits, which ordinarily accrue from participation in a deferred compensation plan. This plan permits employees of the County, as may be designated by the Board of Supervisors, to enter into agreements with the County of Kern which will provide for a deferral of payment of a portion of their current compensation until death, disability, retirement, or termination of employment.

Section 6. Travel Expense

- A. An employee required to travel and use a private vehicle to conduct County business, must receive advanced approval from their department head. Reimbursement for vehicle expense shall be set forth in the applicable Administrative Procedures manual section.
- B. Any employee required to travel on business for the County will receive a 100% advancement of the meal and lodging allowance as set by the County fee payment schedule subject to approval of the Board of Supervisors. If cost is less than the advancement, employee must return the difference to the Auditor-Controller's Office within thirty (30) days. The County shall review this fee payment schedule annually to insure that such payments accurately reflect actual costs encountered by employees.

Section 7. Moving Allowance

- A. Any employee transferred by the appointing authority from one geographical location to another, which entails a household move of over 20 miles, shall receive reasonable time, with pay, to provide for relocation needs. Such time will not exceed five working days. Overtime shall not be paid for relocation. When the move is greater than 20 miles, the employee shall be paid the moving allowance for all substantiated expenses up to \$500 per move.
- B. Moving Allowance benefits as described herein above must be utilized within 12 calendar months of the actual effective date of the transfer. Failure to invoke benefits within the prescribed 12 calendar months will cause forfeiture of said benefits.

Section 8. Flexible Spending Accounts

The County agrees to continue Flexible Spending Accounts as provided by Rule 125 of the Internal Revenue Service rules and to make such FSA's available to all represented employees.

Section 9. Physical Fitness Program

- A. The County agrees to provide a voluntary Fitness/Wellness medical testing program for all represented employees;
  - 1. Employees who choose to participate will initially receive a physician-supervised physical with a stress EKG component to assess cardiovascular health/fitness.
  - 2. The medical evaluation described above will establish a fitness level expressed in terms of a Metabolic Equivalent (MET).
  - 3. Effective March 1, 2008, the County will provide a flat rate special allowance for those who have qualified through such County testing as achieving certain MET levels as follows:
    - 4. 2% of base pay to employees who have achieved a fitness score of 11 METs;
    - 5. 4% of base pay to employees (not cumulative) who have achieved a fitness score of 12 METs or above;
- B. On-going fitness testing for participants will be performed annually as follows:

1. The initial fitness testing for all participants will be a medically supervised test performed as described above.
2. Following the initial testing:
  - i. For all participants fifty (50) years of age or older, all fitness testing shall continue to be medically supervised as described.
  - ii. For all participants younger than fifty (50) years of age, medically supervised testing will be done every other year unless the County approved physician advises that the employee should undergo medically supervised testing.
  - iii. Testing in “non-medical” years will be conducted by Work Capacity Test to be devised and adjusted to coincide with the 11 MET – 12 MET standards.
  - iv. The parties agree to meet and confer regarding development and implementation of an appropriate and mutually agreeable non-medical “work capacity” testing program which shall be based on similar testing conducted by the County Fire Department.
3. Fitness testing for participants will be performed annually on the employee's own time or with approved paid leave time.
4. Voluntary retesting will be subject to medical approval, and is to be performed, through the County approved physician, on the employee’s own time and at their own expense.
5. All general and specific medical information derived as a result of an employee’s participation in this program is confidential and shall not be disclosed to any person or entity, including the County, without the express written consent of the employee; furthermore, that information will not be used for any employment purpose except to determine the employees entitlement to Fitness/Wellness pay.

The parties agree to meet and confer regarding implementation of the fitness\wellness program.

Section 10. Suggestion Award Program

The County agrees to continue the Suggestion Award Program throughout the term of this MOU.

Section 11. Labor Code section 4850 Time:

Employees receiving pay while on leave under the provisions of Labor Code section 4850 (“4850 leave”) shall receive (a) one day compensatory time-off (CTO) credit for each County holiday which falls while the employee is on 4850 leave, based on the daily number of hours the employee was scheduled to work prior to 4850 leave; (b) uniform allowance during each six month period while on 4850 leave; and (c) if working 12 hour shifts (i.e., 84 hours per period), four (4) hours of “built-in” overtime each pay period. No adjustments shall be made for 4850 time taken prior to February 21, 2003. Except as indicted above, County shall continue its practices relating to the computation of 4850 pay. KLEA agrees that this Section 11 is a legally correct method of calculating 4850 pay and resolves all disputes between the parties relating to the calculation of 4850 pay.

## **ARTICLE VIII – Working Conditions**

### **Section 1. Hours - Sheriff's Department**

The total hours worked by an employee in any 24 hour period shall not exceed 16 hours except during an emergency, as defined in Article VIII, Section 3 (E) of this MOU, or as necessary to complete a work assignment authorized by a supervisor or superior.

### **Section 2. Work Week - Sheriff's Department**

Regular employees within a specific section, unit, division, or department may work a modified week of less than five (5) days, but not less than forty (40) hours per week, not including hours working on standby pursuant to Article IV, Section 5, subject to Sheriff-Coroner's discretion.

### **Section 3.- Officer Safety and Staffing Level**

- A. The County and the Union agree to cooperate fully in matters of safety, health and sanitation.
- B. The County will provide sufficient staffing, within budgetary limits established by the Board of Supervisors, to maintain a reasonable level of staffing to provide for officer safety, as determined by the Sheriff-Coroner.
- C. In work areas where it is determined by the Sheriff-Coroner or his/her designee that significant reduction in staffing occurs, due to sick leave, vacation, CTO, etc., the supervisor will be granted the authority to call in sufficient staffing. Such policy shall be limited by budgetary constraints as set forth by the Sheriff-Coroner, as approved by the Board of Supervisors.
- D. A list of volunteers for overtime work will be maintained. Volunteers will be utilized first to cover any needed overtime work prior to overtime being scheduled to non-volunteers.
- E. Nothing herein shall prevent the County from making temporary work schedule changes to address bona fide emergencies and/or to satisfy operational needs that may arise during the term of this MOU. An "emergency" is defined as an unanticipated or unforeseen event or occurrence beyond the control of the County or the Sheriff's Department, which requires prompt and immediate law enforcement response to prevent injury or damage to life, person or property.

### **Section 4. Critical Incident**

In the event the act of a sworn officer causes the death or serious injury of another person (i.e. officer-involved shooting), the officer's Division Commander shall place the employee on administrative leave with pay for at least 48 hours immediately following the incident.

Section 5. Equipment Safety

- A. The Union will be granted a voting position on the Sheriff's Accident Review Committee.
- B. In order to properly document and rectify the existence of "unsafe" equipment whenever an employee reasonably believes he/she has been assigned a piece of equipment which is unsafe for its intended use, he/she shall immediately report the same to his/her shift supervisor. If a dispute arises as to whether the equipment is safe or not, the employee will submit the question to the Sheriff's Department Safety Committee for determination of the safety issue. However, the Sheriff-Coroner retains the ultimate discretion as to the implementation of any findings.

Section 6. Exposure Testing

In the event an employee may have been subjected to a verifiable exposure to an infectious disease or a hazardous material, the employee may obtain, with prior approval, a medical examination and/or treatment from a medical provider to be determined by the County and paid at the County's expense.

Section 7. Work Area

The County will provide, within budgetary limits established by the Board of Supervisors, adequate room, space, and equipment for employees to perform their duties. Any special equipment required and designated by the County for an employee to perform his/her duties will be furnished by the County subject to budgetary limitations.

Section 8. Emergency Vehicles

- A. The County will continue to grant the Union input into the selection process of Sheriff's Department vehicles, related equipment, and when emergency vehicles should be surveyed.

Section 9. Employee Training

- A. The County supports and is in favor of providing quality training for employees.
- B. During the term of this MOU, the Union may give input to the department concerning training needs.
- C. Mandatory firearms training sessions shall be held at least once a year. Subject to budgetary constraints, optional firearms training shall be offered to employees, in a manner approved by the Sheriff-Coroner.
- D. The County agrees to make a reasonable effort at scheduling mandatory in-service training sessions during an employee's normal working hours, whenever possible.

Section 10.- Claims Review Board

When the Claims Review Board is convened, the Union shall be allowed one member on said Board.

Section 11. Seniority

- A. For purposes of applying seniority rights for the transfer and shift bid provisions of this MOU (i.e., Article IX and Article X), seniority shall be defined as follows:
1. *Rank Held.* If equal, Item #2 to be considered.
  2. *Time In Rank.* Computed from the date an employee was officially promoted to that rank in a permanent, allocated, position. Rank is considered as being equal in all Deputy Sheriff Classifications. If equal, Item #3 to be considered.
  3. *Time In Service* will be defined as follows: Total length of unbroken employment with the Kern County Sheriff's Department in a full-time Deputy Sheriff classification. Such time starts on the date employed in any full-time Deputy Sheriff classification, including but not limited to non-peace officer Deputy Sheriff Trainee, (i.e., the "Hire Date"). The employment time included is limited to the classifications listed in Article III of this MOU. Work as an extra-help Deputy Sheriff, CETA Deputy Sheriff, or any other temporary, part-time Deputy position is not to be included in calculating seniority. The Hire Date is not changed because of unpaid leave (e.g., suspensions and leaves without pay) and unpaid leave is not deducted from the time in service as defined above.
  4. In the event the seniority of two or more employees remain equal after consideration of Items #1-3, the final ranking of the seniority shall be determined by lottery.

Section 12. Deputy Coroner Functions

Deputy Sheriffs, Senior Deputies and Sheriff's Sergeants will not normally be required to perform Deputy Coroner duties.

Section 13. Class B Drivers License

The County shall provide a certification and medical examination for employees required to obtain a Class B driver's license. The County shall also pay the cost of the license and provide an appropriate vehicle for the Class B examination.

**ARTICLE IX – Voluntary Transfers**

Section 1. Voluntary Transfer Policy

- A. Intent: The purpose of this section is to establish uniform guidelines and criteria for voluntary personnel transfers within the Sheriff-Coroner department's bureaus, divisions and sections. This policy does not preclude the Sheriff-Coroner from re-assigning personnel based on his/her discretion, as defined in Article II, Section 3 (A) (11) of this MOU.
- B. Except as provided herein, a sworn safety officer may, at any time, request a voluntary transfer, within rank classification, to any division within the Sheriff-Coroner's department.

Such requests shall be made for specific assignments, with the following exceptions:

1. Detentions Bureau, Court Services Division: The Court Services Commander will determine the specific assignment: Transportation or Bailiff.
2. Law Enforcement Bureau, Detective Division: The Detective Division Commander will determine the specific assignment, Crimes Against Persons or Crimes Against Property.

## Section 2. Voluntary Transfer Criteria

Except as provided herein, voluntary transfers of departmental personnel will be based on the following criteria:

- A. With the exception of hardship cases, the position requested must be vacant.
- B. The degree of ability of the transfer candidate to perform the job functions of the assignment sought.
- C. Hardship based on:
  1. The health and welfare of the employee and the employee's family, or
  2. Special or unusual circumstances.
- D. Seniority (as defined in Article VIII, Section 11).

## Section 3. Application of Criteria

- A. If, after applying the above criteria and two or more employees are considered equal, seniority will be the deciding factor.

When an employee is denied a transfer in favor of a less senior employee, the employee may request that he/she be informed of the causes and/or reasoning factors that resulted in the denial. The employee shall submit a request for such information to the appropriate Chief Deputy, in writing, via the chain of command.

- B. Exceptional Assignment Criteria

The criteria listed in Section 2 above shall not apply to the voluntary transfer (or collateral assignment) of departmental personnel into the following assignments:

Special Enforcement Division  
 SWAT  
 SERT  
 Field Training Officer  
 Canine Handler  
 Bomb Technician  
 Air Support Unit  
 Contract City Sergeants  
 Rural Crime Investigation Unit  
 Hostage Negotiations  
 Personnel Investigations Division  
 Training Division  
 Volunteer Services Coordinator

The suitability of candidates for these positions shall be determined by a departmental assessment process, which shall evaluate such factors as candidate experience, performance, and training. Seniority shall be given due consideration, but will not be the sole determining factor in such selections.

The administrative personnel responsible for assessing the suitability of personnel seeking voluntary transfer to these positions shall make their recommendation to the Sheriff-Coroner. The final selection of personnel for these assignments shall rest exclusively with the Sheriff-Coroner.

The President of KLEA may only review confidential personnel information if the applicant specifically authorizes said review.

The administrative personnel responsible for assessing the suitability of personnel seeking voluntary transfer to these positions are:

Special Enforcement Division:

Chief Deputy - Law Enforcement Bureau  
Commander - Special Enforcement Division  
President, Kern Law Enforcement Association

Personnel Investigations Division:

Chief Deputy - Support Services Bureau  
Commander - Personnel / Internal Affairs

SWAT:

Chief Deputy - Law Enforcement Bureau  
Commander - SWAT  
President, Kern Law Enforcement Association

Bomb Technicians

Chief Deputy - Law Enforcement Bureau  
Commander - Detective Division  
President, Kern Law Enforcement Association

Canine Handlers & Helicopter Observers

Chief Deputy - Law Enforcement Bureau  
Commander - Metro Patrol Division  
President, Kern Law Enforcement Association

Field Training Officers

Chief Deputy - Support Services Bureau  
Commander - Training/Volunteer Services Division  
President, Kern Law Enforcement Association

SERT

Chief Deputy - Detentions Bureau  
Commander - Court Services Division  
President, Kern Law Enforcement Association

The denial of a voluntary transfer to any such position shall not be grounds for an employee grievance, and is expressly excluded from the Grievance and Arbitration Procedure found in Article XII of this MOU.

#### Section 4. Grounds for Denial

The following nonexclusive factors may be considered as causes for the denial of a transfer request:

A. Employee Performance Reports (EPR's)

Unsatisfactory employee performance during the past twelve (12) months. Any single "improvement needed" or "unsatisfactory" EPR rating may be considered as cause for denial. (Categories #1-22 shall apply to all employees and #1-8 shall apply to supervisory employees.)

**NOTE:** In the event an employee's request for transfer is denied due to employee performance as set forth in paragraph A, the employee shall have the right to request and receive a re-evaluation within ninety (90) days. If the employee is successful in improving his/her evaluation to the standard or above-standard level, he/she shall be allowed to resubmit his/her request for transfer for consideration of future vacancies.

B. Leaves of Absence

Projected off-duty status may be grounds for denial of a voluntary transfer request. The projected length of the off-duty status and the need to maintain filled positions will be the primary concern. The appropriate Chief Deputy will make the final determination in those matters related to off-duty status.

C. Internal Affairs Investigations

When an employee requesting a voluntary transfer is currently the subject of an internal investigation, such investigation must be based on allegations of misconduct of the type that, if sustained, would result in the imposition of disciplinary action (such as, but not limited to, suspension, demotion, discharge or transfer), or the voluntary transfer would hamper the investigation, or the voluntary transfer is deemed not to be in the best interests of the department and/or community. In the event the investigation clears the employee of the allegations, the employee shall be allowed to resubmit a voluntary transfer request for current or future vacancies.

D. Physical Limitations

When the employee cannot perform the essential functions of the specific assignment requested, with or without reasonable accommodation in accordance with law.

E. Personal Relationships

Voluntary transfer requests will not be approved where the effect of the transfer would result in: (a) a violation of the County's nepotism policy or (b) a spouse, or other member of immediate family, or boyfriend and girlfriend being placed:

1. On the same shift; or
2. Under the supervision of the other.

In no event will a voluntary transfer be approved where the transfer would result in the decreased performance by the transferee or other personnel already assigned to the work unit to which the transfer is sought.

- F. Needs of the Department
- G. Legal Mandates
- H. When the voluntary transfer request is for a position designated by the department to be a Training Position.

#### Section 5. Method of Requesting Voluntary Transfers

- A. The employee requesting a voluntary transfer must complete the Kern County Sheriff's Department "Request for Transfer" form. The employee may deliver, mail, fax or electronically submit the request directly to the Sheriff's Personnel Division. Upon receipt, the Personnel Division will time-stamp the request and forward a copy back to the submitting employee.
- B. An employee is restricted to having one "Request for Transfer" form on file at any given time. Said form shall identify a maximum of three requested assignments.
- C. The Department will notify the Union at least ten (10) working days in advance of a decision to select a candidate to fill a position vacancy.

#### Section 6. Duration of Voluntary Transfer Requests

All voluntary transfer requests will be removed from the transfer files as follows:

- A. On June 30 and December 31 of each year;
- B. When the employee withdraws the request for voluntary transfer by submitting a written cancellation notice to his/her immediate supervisor;
- C. When an employee changes assignment as a result of a promotion;
- D. When an employee is transferred to a requested assignment;
- E. When the employee is the subject of a "Special Evaluation" and receives any single "below standard" rating in any category of the Employee Performance Report.

#### Section 7. Duration of Assignments Resulting From Voluntary Transfers

- A. An employee who has been in a Special Enforcement Division assignment for four (4) continuous years MAY be required to accept reassignment to a position outside of the Special Enforcement Division. Such re-assignments shall be made in accordance with the voluntary transfer policy as set forth in Article IX of this MOU.
- B. An employee, accepting a requested voluntary transfer or promotional transfer, may be required to remain in the new assignment for at least twelve (12) months.

#### Section 8. Hardship Transfers.

All requests for voluntary transfer based on hardship conditions will require documentation. Hardship transfers will not be given for problems common to most employees. The Sheriff-Coroner will make the final determination for those transfer requests based on hardship conditions.

When a hardship transfer is requested, the employee shall, on the reverse side of the "Request for Transfer" form or otherwise, include a full explanation of the problem causing the hardship and specify how the position being requested would alleviate the problem.

In those instances where the hardship is requested due to the health of the employee or a member of the employee's family, a physician's statement shall be attached to the completed "Request for Transfer" form. The physician's statement must detail how the hardship transfer will benefit the employee and explain why it is necessary for employee to leave the assigned location, the physician's statement must also indicate the expected duration of the particular health problem.

#### Section 9.- No Requests on File

In those cases where a position is vacant and a request for that vacancy has not been received by the department, that vacancy will be announced throughout the department. Qualified personnel will have ten (10) calendar days from that announcement in which to submit a voluntary transfer request for the vacant position.

#### Section 10. Promotional Transfer Requests

Employees who are successful in completing a promotional examination process may submit a voluntary transfer request for a desired assignment prior to promotion.

#### Section 11. Temporary Re-Assignments

In cases such as terminations, transfers, deaths, etc., the Sheriff-Coroner may temporarily assign an employee to fill a vacancy until the voluntary transfer policy criteria can be met. Such vacancies shall be filled within a reasonable time, given the circumstances.

#### Section 12. Re-Assignment After Temporary Leaves of Absence

When an employee returns to duty from an approved leave of absence, he/she shall be re-assigned dependent upon existing job openings and such assignment, whenever possible, shall be made in accordance with the voluntary transfer policy.

#### Section 13. Union President and Vice President

The Union President and Vice President shall not be transferred from a work assignment (location) for arbitrary or capricious reasons during their terms of office, wherein such transfer would render their roles as officers of the Union to be ineffective, or cause them unreasonable commuting time.

## ARTICLE X – Shift Bids/Schedules

### Section 1. Shift Bids

- A. If during the term of this MOU the Sheriff-Coroner continues the practice of holding shift bids for the establishment of the work schedules for Deputy Sheriffs, Senior Deputy Sheriffs and Sergeants assigned to Patrol, Lerdo Pre-trial Facility, Lerdo Max/Medium facility, or the Central Receiving Facility, the following policy and procedure will apply:

1. Bidding Time

The bidding for shifts shall take place sometime during the term of this MOU at a time designated by the Sheriff-Coroner.

2. Selection of Shifts

Personnel may bid for their shifts and days off based on seniority, as defined in Article VIII, Section 10.

3. Exceptions

The Sheriff-Coroner reserves the right to make exceptions and assign shifts in the following circumstances:

- a. To provide for emergency situations, which might arise.
- b. To correct an obvious imbalance in the experience level of personnel assigned to any given shift.
- c. To provide for retraining or appropriate supervision of personnel whose job performance is substandard or unsatisfactory.
- d. To compensate for temporary vacancies due to injuries, illness, or leaves of absences.
- e. Administrative reassignments made under exemption Sections b) and d) above, shall not be made in a capricious manner.
- f. Personnel transferred into one of the divisions covered by this section in the middle of a shift bid period shall be assigned at the discretion of the Sheriff-Coroner, and would not be able to invoke seniority rights until the next shift bid period.

B. Shift Bids All Other Divisions

Employees assigned to all other divisions shall be afforded an opportunity to request assignment to any shift vacancy within the work unit. This request should be in writing and directed to their division commander or their substation commander.

Such requests shall be given due consideration for an employee's time in rank.

The Sheriff-Coroner reserves the right to make exceptions and assign such shifts in the following circumstances:

1. To provide for emergency situations, which might arise.
2. To correct an obvious imbalance in the experience level of personnel assigned to any given shift.
3. To provide for retraining or appropriate supervision of personnel whose job performance is substandard or unsatisfactory.
4. To compensate for temporary vacancies due to injuries, illness or leaves of absence.

C. Transfers

1. Personnel transferred into the Patrol or Detention Divisions, or any other division where shift bidding is utilized, following the establishment of the bid-list will be assigned to a vacant slot.
2. Said personnel will bid a shift at the next bid cycle.
3. Persons who are on extended leave (more than 90 calendar days) and not due back before the bid will not be allowed to bid during that bid cycle. In these cases, the employee must provide a written doctor's prognosis indicating a probable return to work before the bid cycle to be eligible to bid.

Section 2. Scheduling of Paid Leave

A. Requests for vacation time off, compensatory time off (CTO) or holiday time off shall be determined in the following work units separately:

1. Individual shifts in the Lerdo Pre-Trial Facility, Lerdo Max/Med Facility, Lerdo Minimum Facility and Patrol Divisions.
2. Individual work details in the Detective and Internal Affairs Divisions.
3. Each substation.
4. Civil Division.
5. Communications Center.
6. Courts and Transportation.

B. Vacation Time Off

Vacation schedules in excess of five (5) working days shall be submitted and approved by February 1 of each year for those employees who remain within the separate work units outlined in Subsection A. If two or more employees request the same days off, such requests will be granted to the employee(s) having the greater seniority. (Seniority as defined in Article VIII, Section 11.)

This subsection shall not preclude a supervisor from approving a vacation request submitted after February 1, should it be determined that such a request, if granted, would not conflict with minimum staffing levels.

In the event an employee submits a vacation request after February 1, he/she has no right to bump another employee's vacation schedule.

C. Compensatory-Holiday Time Off

1. Requests for CTO or holiday time-off may not be made more than ninety (90) days in advance, except when CTO or holiday time-off are being included with a vacation request for a total time of five (5) days or more.
2. Requests for CTO or holiday time-off, if approved, shall be granted on a "first come first serve basis."
3. In the event two (2) or more employees submit requests for CTO or holiday time-off on the same date and such requests are for the same day(s) off, and it has been determined that all such requests cannot be approved in order to maintain minimum staffing levels, as determined by the Sheriff-Coroner, those requests approved shall be granted to those employees possessing the greater seniority, (seniority defined in Article VIII, Section 12).
4. The above subsections are not intended to interfere with the maintenance of minimum staffing levels as determined by the Sheriff-Coroner.

Section 3 Shift Trades

- A. The Sheriff-Coroner may grant the request for any two members of a work unit to exchange tours of duty or "duty off", provided that the two employees are equally qualified and of equal rank and that such a trade will not disrupt normal operations. Such trade is contingent upon the approval of the employees' supervisors.
- B. Under no circumstances will said shift trades be allowed to result in additional compensation including, but not necessarily limited to, overtime pay, holiday pay, special assignment premiums, availability pay, or working out of classification pay.

**ARTICLE XI**

**Recovery of Overpayments or Correction of Underpayment of Wages or Employee Benefits:**

- A. If, as a result of an administrative error, any employee of the County receives payment of monies or receives benefits in excess of that legally due, the employee will reimburse the County by one or more of the following methods after the employee is provided the opportunity to sign a "Request for Correction of Payroll Error" at the departmental level:
  1. Repayment in cash, net of taxes, in full or by a fixed installment plan agreed to by the employee and the Auditor-Controller-County Clerk after the employee is provided documentation of the error, notice, and the opportunity to object;
  2. Repayment in full, deducted from the next payroll warrant issued to the employee after the employee is provided documentation of the error, notice, and the opportunity to object. This option will only be used by the Auditor-Controller-County Clerk, with due consideration of the amount to be deducted and the amount of disposable earnings available to the employee;
  3. Repayment by the reduction of accumulated vacation hours and/or compensatory time off hours by the number of hours calculated to produce a

dollar amount, net of taxes, to repay the County after the employee is provided documentation of the error, notice, and the opportunity to object;

4. Repayment by fixed installment deductions from sequential payroll warrants after the employee is provided documentation of the error, notice, and the opportunity to object. The number and amount of installments will be determined by the Auditor-Controller-County Clerk, with due consideration of the amount of the overpayment and the amount of disposable earnings available to the employee; or
  5. Any combination of the above as found mutually agreeable to the employee and the Auditor-Controller-County Clerk.
- B. If, as a result of an administrative error, any employee of the County receives payment of monies or benefits less than that legally due, the County will reimburse the employee by one or more of the following methods:
1. An employee who is underpaid on a payroll warrant will receive a corrected payment in the next available payroll cycle; or
  2. In the event an employee is underpaid a substantial portion of monies or benefits legally due on a payroll warrant, the Auditor-Controller-County Clerk may issue a salary advance.
- C. Disputes regarding the application of this section will be resolved pursuant to the Grievance and Arbitration Procedure. Collection of such disputed amounts will be held in abeyance until such grievance is adjudicated.

## **ARTICLE XII – Grievance and Arbitration Procedure**

### ***Objectives***

- To informally settle disagreements at the employee-supervisor level;
- To provide an orderly procedure to handle the grievance through each level of supervision;
- To correct, if possible, the cause of the grievance to prevent future complaints;
- To promote harmonious relations among employees, their supervisors, and departmental administrators;
- To assure fair and equitable treatment of all employees;
- To resolve grievances at the departmental level before appeal to higher levels.

### ***Definitions***

The following terms, as used in this Article, shall have the following meaning:

**Grievance**: a complaint by an employee concerning the interpretation or application of this MOU or rules, and regulations or policies (except Civil Service Commission rules) governing personnel practices and working conditions. A grievance may be filed when the employee believes an

injustice has been done because of unfair application or deviation from a departmental policy, or an alleged violation of any term or condition of a valid MOU.

Days: calendar day, exclusive of Saturday, Sunday, and legal holidays.

Employee: any employee in the classified service of the County of Kern regardless of status.

Immediate Supervisor: the person who assigns, reviews, or directs the work of an employee.

Superior: the person to whom an immediate supervisor reports.

Representative: a person who appears on behalf of the employee.

Department Head/Appointing Authority: the officer or employee having charge of the administration of a department of Kern County government.

### ***Exclusions***

1. Work assignments, unless the complaint arises out of an allegation that the employee was required to work out-of-classification in violation of that provided by Kern County Ordinance Code, and did not receive the out-of-classification pay or unless there is evidence the assignment of work is a form of disciplinary action.
2. Classification and salary matters relative to classification.
3. Appeals involving demotions, dismissals, incremental denials, suspensions, promotions, separations, and examination procedures. (These matters are within the Civil Service Commission's authority.)
4. County policy and ordinance questions, including subjects involving newly established or amendments to existing Board of Supervisors' resolutions, ordinances, or minute orders, unless the allegation is that they are not uniformly administered.
5. Work performance evaluations.
6. Impasses in meeting and conferring upon terms of a proposed MOU.
7. Grievances filed after twenty days from date of occurrence, or after twenty days from the date the employee had knowledge of an occurrence (but in no case later than one year from date of occurrence).
8. Grievances based upon operation of Article IX, Section 3, subsection B. of this MOU.

### ***Time Limits***

Time limits are established to settle grievances quickly. Time limits may be extended by agreement of the parties. If the grievant is not satisfied with the decision rendered, it shall be the grievant's responsibility to initiate the action, which submits the grievance to the next level of review within the time limits specified. Failure of the employee to submit the grievance within the time limits imposed shall terminate the grievance process, and the matter shall be considered resolved. Failure of the County to respond within the time limits specified will allow the grievant to submit the grievance to the next higher step of the grievance procedure.

### ***Parties' Rights and Restrictions***

1. A party to the grievance shall have the right to record a formal grievance meeting at the expense of the requesting party.
2. The grievance procedure shall not limit the right of any employee to present a grievance individually.
3. An employee may have a representative present at all steps of the grievance procedure.
4. Reasonable time in processing a grievance will be allowed during regular working hours, with advanced supervisor approval.
5. Only a person selected by the employee from within a recognized employee organization, and made known to management prior to a scheduled grievance meeting, shall have the right to represent or advocate as an employee's representative.
6. Nothing within this grievance procedure shall be construed as limiting the right of management to manage the affairs of the County.
7. Grievances of an identical nature, involving an alleged violation of the same Article, Code, or other related rule, regulation, concerning the same subject matter, may be consolidated.
8. Confidential Communication. Any communication between a member of the Union and any recognized Union representative regarding a potential or actual employee grievance will be defined as confidential.
9. The Union, as an organization may file a grievance alleging that the County has violated specific rights afforded the organization in the Memorandum of Understanding. Such grievance shall be filed directly at Step 2 (Department Head level), and shall be bound by the time limitations and procedures set forth in the grievance procedure.

### ***Informal Grievance Disposition***

1. Within twenty (20) days from the occurrence of the incident on which a complaint is based, or within twenty (20) days from the employee's knowledge of the occurrence (but no later than one [1] year from the date of occurrence), and employee will promptly and verbally meet to discuss the complaint with his/her immediate supervisor. In those circumstances where the nature of the complaint involves the immediate supervisor, the employee may verbally discuss the complaint with the next higher level of supervision, provided notification is given the immediate supervisor by the employee. Such initial discussion shall precede the use of the formal grievance procedure. If the supervisor fails to reply to the employee within five (5) days of the meeting, or if the employee is not satisfied with the decision, the employee may, within five (5) days utilize the formal grievance procedure.

### ***Formal Grievance Procedure***

- Step 1. The formal grievance procedure shall be initiated by the employee, stating the nature of the grievance, the alleged violation by section or number, the desired solution, in writing on the grievance form, together with any desired solution, and with any supporting

documents attached to the grievance form. Grievance forms are available in the department for this purpose.

The grievance form and any supporting documents shall be delivered to the supervisor with whom the informal meeting was held, no later than ten (10) days from the date of the close of the informal meeting. The supervisor shall hold a formal meeting with the employee to review the facts, gather all supporting documents, discuss the complaint and desired solution, and discuss the proper appeal procedure. The supervisor will issue a written decision on the original grievance form within five (5) days of the close of the formal meeting.

Step 2. If the employee feels the immediate supervisor has not resolved the grievance, the employee may appeal to the next higher level of supervision and department head jointly. At this time, all supporting documents and evidence relative to the grievance shall be included within the appeal. The person occupying the next higher level of supervision (identified by the department), together with the department head, shall hold a formal meeting with the employee and his/her representative, if requested, within ten (10) days from the date of the appeal receipt, and attempt to settle the grievance.

A decision shall be made, in writing, on the original grievance form to the employee by the department head within ten (10) days from the close of the formal meeting.

Step 3. If the employee is not satisfied with the decision of the department head, he/she may appeal the decision to the County Administrative Office within five (5) days from receipt of the department head's decision. In his/her appeal to the County Administrative Office, all supporting documents must be attached to the grievance form, together with the grievant's reason for appeal and stated remedy requested.

The CAO or his/her designee will review the original grievance, all supporting documents, the department head's response, and the remedy requested, and issue a written decision within ten (10) days of receipt of the grievance.

### ***Advisory Arbitration***

If the employee is not satisfied with the decision of the CAO or his/her designee, the employee may submit the grievance to advisory arbitration by written request to the County Administrative Office within twenty (20) days of receipt of the CAO decision.

If the grievance is submitted to the advisory arbitration, the grievant, or his/her representative, and the Employee Relations Officer shall, within five (5) days of receipt of the grievant's request, set a date for a meeting to:

1. Attempt to settle the grievance.
2. Agree to any stipulations.
3. Agree upon the issue statement. (Issue statement will reflect issue as presented in original grievance as written on grievance form.)
4. Select an impartial arbitrator.

### Selection of the Advisory Arbitrator

If the parties fail to agree on an arbitrator, a list of five (5) neutrals will be jointly requested from either the Federal Mediation Service, the State Mediation and Conciliation Service, or the American Arbitrator's Association. The agency will be mutually selected.

The parties shall select a neutral by alternately striking a name from the list, with the remaining name being the selected neutral. Should both parties agree that the first list submitted is unsatisfactory, the parties may request a second list.

The arbitration procedure will be informal and private. The arbitration procedure shall not be bound by any of the rules of evidence governing trial procedure in State courts.

The arbitrator will not have the power to add to, subtract from, or otherwise modify the provisions of any MOU, Rules, Regulations, or Ordinances of the County of Kern.

The arbitrator will confine himself/herself to the issue(s) submitted.

The arbitrator's decision will be advisory, subject to approval by the Board of Supervisors.

The cost of the arbitrator shall be borne equally between the County and the grievant. Each party shall bear its own costs relating to witness fees, transcriptions and attorney's fees.

The arbitrator shall be requested to submit his/her decision within thirty (30) days from the close of the hearing.

### **ARTICLE XIII – Severability**

- A. Should any provision of this MOU be found to be in violation of any Federal or State law or Merit System Rule by a court of competent jurisdiction, all other provisions of the MOU shall remain in full force and effect for the duration of the MOU.
- B. In the event of suspension or invalidation of any Article or Section of this MOU, the parties agree to meet and confer within thirty (30) days after such determination for the purpose of attempting to arrive at a mutually satisfactory replacement for such Article or Section.

**ARTICLE XIV – Effective Date and Duration**

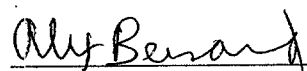
**Section 1. - Effective Date and Duration of MOU**

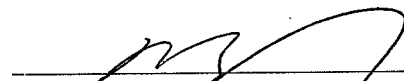
- A. Upon approval of this MOU by the Board of Supervisors, it shall supersede and nullify all previous MOUs and it shall be binding upon both parties in accordance with Article 14, Section II, of the Employer-Employee Relations Resolution.
- B. This MOU shall expire on June 30, 2009.

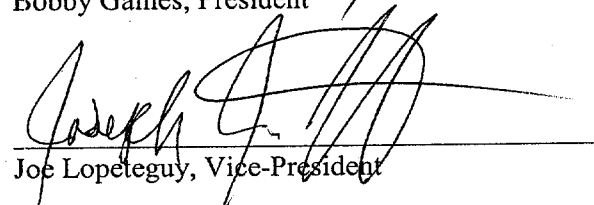
**Section 2. - Signatures**

This MOU entered into and signed this 30<sup>th</sup> day of October 2007:

**FOR THE UNION:**

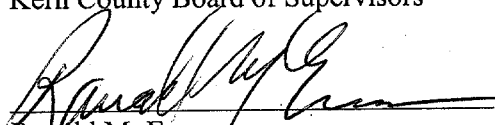
  
\_\_\_\_\_  
Alex Bernard, General Manager  
Kern Law Enforcement Association

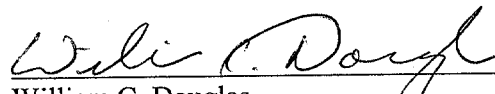
  
\_\_\_\_\_  
Bobby Gaines, President

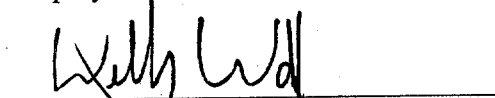
  
\_\_\_\_\_  
Joe Lopeteguy, Vice-President


**FOR THE COUNTY OF KERN:**


  
\_\_\_\_\_  
Don Maben, Chairman  
Kern County Board of Supervisors

  
\_\_\_\_\_  
Ronald M. Errea  
County Administrative Officer

  
\_\_\_\_\_  
William C. Douglas  
Employee Relations Officer

  
\_\_\_\_\_  
Willie Wahl  
Chief Deputy Sheriff

  
\_\_\_\_\_  
Susan Wells  
Deputy Employee Relations Officer

  
\_\_\_\_\_  
Steve Sanders  
Deputy County Counsel

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF KERN, STATE OF CALIFORNIA**

In the matter of:

Resolution No. 2007-431

Reference No. \_\_\_\_\_

**ADOPTION OF STEP LEVEL "F" FOR  
ALL POSITIONS REPRESENTED  
BY KERN LAW ENFORCEMENT ASSOCIATION**

I, **Kathleen Krause**, Clerk of the Board of Supervisors of the County of Kern, State of California, hereby certify that the following resolution, on motion of Supervisor Watson, seconded by Supervisor Rubio, was duly and regularly adopted by the Board of Supervisors of the County of Kern at an official meeting thereof on the 30th day of October, 2007, by the following vote and that a copy of the resolution has been delivered to the Chairman of the Board of Supervisors.

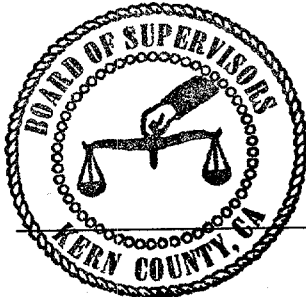
AYES: McQuiston, Maben, Maggard, Watson, Rubio

NOES: None

ABSENT: None

Kathleen Krause  
Clerk of the Board of Supervisors  
County of Kern, State of California

Judy A. Perry  
Deputy Clerk



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**RESOLUTION**

Section 1. **WHEREAS:**

(a) Kern County Ordinance Code section 3.080.070 provides, except as provided by county resolution, within each position in the classified service there shall be six (6) step levels; and

(b) Pursuant to the Meyers- Milias- Brown Act (Government Code section 3500 et. seq), the County and Kern Law Enforcement Association (hereafter "Union"), have met and conferred in good faith and, as part of their Memorandum of Understanding adopted concurrently with this Resolution, have agreed to add a seventh step level for positions in the classified service represented by Union;

Section 2, NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Kern, State of California, as follows:

1. Effective January 5, 2008, a new step (i.e. Step F), as described below, will be added for all positions represented by Union.

2. Step F shall consist of the rate of compensation for a specified class position that a conscientious employee may expect to complete at the end of five (5) consecutive years of employment in such position or at the completion of a year of continuous service in Step E of such position. An employee shall be advanced to Step F following the completion of five (5) consecutive years in a specified class position or at the completion of a year of continuous service in Step E of such position, upon recommendation of the sheriff and upon approval of the director of personnel. In no event shall an employee be advanced to Step F prior to January 5, 2008.

3. Step F shall be administered consistent with the administration of Steps A through E which are described in Chapter 3.08 of the Kern County Ordinance Code except that on January 5, 2008 all employees who: (a) have completed a year of continuous service in Step E of such position and (b) have a "standard" or better on the employee's most recent employee performance review ("EPR") shall advance to F Step regardless of the employee's anniversary date.

4. The Clerk of this Board shall forward copies of this Resolution to:

County Administrative Officer  
Auditor-Controller-County Clerk  
Director of Personnel  
County Counsel  
KLEA

#157141

COPIES FURNISHED:
<i>See Above</i>
<i>11-2-07 jpl</i>