MEMORANDUM OF AGREEMENT

BETWEEN

COUNTY OF SANTA CLARA

AND

SANTA CLARA COUNTY
GOVERNMENT ATTORNEYS ASSOCIATION

DECEMBER 7, 2015 - AUGUST 23, 2020
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PREAMBLE
This Memorandum of Agreement is entered into by the County of Santa Clara (hereinafter referred to as the County) and the Santa Clara County Government Attorneys Association (hereinafter referred to as the Association). The parties agree that the rates of pay established by this Agreement are commensurate with those prevailing throughout the County for comparable work as required by the Charter for the County of Santa Clara.

SECTION 1 – RECOGNITION
The County recognizes the Santa Clara County Government Attorneys Association as the exclusive bargaining representative for all classified and unclassified attorneys in coded classifications within the Government Attorneys Association bargaining unit.

For the purpose of this agreement, an attorney shall be defined as a person employed in a coded classification in the bargaining unit covered by this Agreement.

The following classifications are included in the Government Attorneys Association bargaining unit:

Attorney I - Public Defender/District Attorney/Child Support Services
Attorney II - Public Defender/District Attorney/Child Support Services
Attorney III - Public Defender/District Attorney/Child Support Services
Attorney IV - Public Defender/District Attorney/Child Support Services

During the term of this agreement, the County shall not initiate a change under Section 701 of the County Charter to convert GAA represented attorneys in coded classified positions to coded unclassified positions.

SECTION 2 – NO DISCRIMINATION
a) Employment
Neither the County nor the Association shall discriminate (except as allowed by law) against employees because of race, age, sex, color, disability, creed, national origin, religion, Association activity, affiliations, political opinions or sexual orientation.

b) Association Affiliation
Neither the County, nor the Association shall interfere with, intimidate, restrain, coerce or discriminate against any attorney in his/her free choice to participate or join or refuse to participate or join the Association.

SECTION 3 – ASSOCIATION SECURITY
3.1 - Relationship Affirmation
The Association recognizes its obligation to cooperate with the County to assure maximum service of the highest quality and efficiency to the citizens of Santa Clara County, consonant with its obligations to the employees it represents. The County and the Association affirm the principle that harmonious labor-management relations are to be promoted and furthered.
3.2 - Agency Shop

a) Condition of Employment
All employees in the unit who have authorized Association dues, agency fee or charity fee deduction which is in effect on the effective date of this Agreement shall have such deduction continued. Those employees may switch from one type of deduction (e.g. membership) to another (e.g. agency fee). All employees in the unit who have involuntary agency fee deduction in effect on the effective date of this Agreement shall have the involuntary agency fee deduction continued.

As a condition of employment, all new employees who become covered by this contract on or after the effective date of the Agreement shall at the time of hire into a classification covered by this bargaining unit execute an authorization for the payroll deduction of one of the following: (1) Association dues, (2) an agency fee, or (3) if he/she qualifies, a charity fee equal to the agency fee to one of the negotiated funds that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

b) Charity Fee Deduction
To qualify for deduction of the charity fee, the employee must certify to the Association and County that he/she is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations. Such exempt unit member will be required to submit to the Association and County a notarized letter signed by an official of the bona fide religion, body or sect certifying that person's membership. The deduction shall not be forwarded to the charity until the Association has approved of the exemption. The Association will receive from the County quarterly proof of payment of an amount equivalent to such representation fee to one of the negotiated funds or organizations agreed to for alternative payment.

c) Involuntary Deduction
If any currently employed employee fails to authorize one of the above deductions at the time of entry into a classification covered by this bargaining unit, the County shall involuntarily deduct the agency fee from the employee's paychecks beginning with the pay period following entry into the unit.

d) Forfeiture of Deduction
If, after all other involuntary and insurance premium deductions are made in any pay period, the balance is not sufficient to pay the deduction of Association dues, agency fee or charity fee required by this Section, no such deduction shall be made for the current pay period.

e) Financial Documentation
The Association shall within sixty (60) days after the end of each fiscal year provide the County with detailed financial documentation, which shall meet the requirements of Government Code Section 3502.5.
f) Reinstatement
Upon the reinstatement of any employee, or upon the recalling of any employee from layoff status, the County will resume or initiate dues, agency fee, or charity fee deduction for such unit member in accordance with this Section.

g) Petition and Election
If a petition is filed with the County which requests an election rescinding agency shop and such petition contains the signatures of at least thirty percent (30%) of the employees in the unit an election will be held. Such election may only be held once during the term of this agreement. The verification of the petition and the election shall be conducted by State Mediation and Conciliation Service. Voting shall be by secret ballot and the majority vote of all employees covered by the unit shall control.

h) No Fault
The Association agrees to indemnify, defend, and hold the County harmless from any and all claims, demands, suits, or any other action arising from the provisions of this Section or from complying with any demand hereunder.

i) Fair Representation
It is recognized that the Association, as the exclusive representative of all unit employees, is required to represent all unit employees fairly and equally without regard to Association membership or non-membership or their assertion of rights under this Memorandum of Agreement or law.

3.3 - Meeting with Management
a) Open Door Policy Continuation
The Public Defender, Department of Child Support Services and the District Attorney, will continue the "Open Door" policy each has established and/or maintained. The policy allows an attorney in that department to meet with the appointing authority, at a mutually agreed upon time and location, on a matter of concern to the Attorney.

Any employee in a classification represented by the Government Attorneys Association has been, and will continue to be, allowed to bring a representative of his/her choice (this may include a representative of the Association but not a representative of another employee organization) to the mutually agreed upon meeting.

The Association representative will be considered on paid release time for this meeting with management.

b) Association Meetings with Management
Meetings between Association representatives and each appointing authority shall be held upon request of the Association at mutually agreed upon times and locations. It is agreed that the purpose of these meetings is to provide an open door and forum to discuss matters of concern to the Association on behalf of the bargaining unit, consistent with the types of issues and concerns that could be raised under the Open Door Policies of each appointing authority.
It is also agreed that these meetings are not intended to be, and shall not be, the replacement for the parties' mutual obligations to meet and confer on matters within the scope of representation. It is further agreed that these meetings are also not intended, and shall not be, a forum to determine matters which require the approval, agreement, commitment or obligation to perform by the County Board of Supervisors and/or the County Executive or his/her designee.

Both the Association and the appointing authority shall be limited to a maximum of four (4) representatives each at the meeting.

Association representatives shall be considered to be on paid release time for the meeting.

3.4 - Required Notification to the GAA Executive Board
a) The County shall provide the Government Attorneys Association with a biweekly transaction report that includes personnel transactions of Attorneys represented by the Association to include hires, rehires, separations, promotions, transfers and leaves.

b) The County shall meet and confer with GAA on additions/deletions of positions represented by the GAA when required by County Human Resources practices. Any changes to Human Resources practices are not subject to meet and confer. This section is not grievable under Section 24-Grievance Procedure.

3.5 - Printing of Agreement
The parties agree that an electronic format of the Agreement will be used and shall be accessible on the County web page.

SECTION 4 – SALARIES
4.1 - Salaries
Effective December 21, 2015 (pp 16/01), all wages shall be increased by three and one-quarter percent (3.25%).

Effective August 29, 2016 (pp 16/19), all wages shall be increased by three percent (3%).

Effective August 28, 2017 (pp 17/19), all wages shall be increased by three percent (3%).

Effective August 27, 2018 (pp 18/19), all wages shall be increased by three percent (3%).

Effective August 26, 2019 (pp 19/19), all wages shall be increased by three percent (3%).

4.2 - Attorneys Hired On Or After September 5, 2011
a) Each attorney hired on or after September 5, 2011 shall be hired at Attorney I Step I and shall remain at that job classification/salary step until September 1, 2013. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is to be engaged, the appointing authority, at his/her discretion, may hire an attorney at a job classification/salary step above Attorney I Step I prior to September 1, 2013 pursuant to County Ordinances. That attorney will remain at the classification/step at which they were
b) Effective February 3, 2014 attorneys hired on or after September 5, 2011 and who remained in the classification he/she was hired into shall, upon department receipt of application, promotional rating forms, and any further required documentation, be promoted to appropriate classification level if the attorney would have otherwise been promoted except for the provisions of (a) above. Determination of promotional eligibility shall be made by the department within sixty (60) days upon receipt of promotional packet. Should an attorney have been otherwise promoted except for the provisions of (a) above, between September 2, 2013 to February 2, 2014 he/she shall have his/her classification adjusted to the appropriate effective date. This is an adjustment to the date only for the appropriate classification to reflect where the employee could have been had there not been a freeze due to concessions. There is no retroactive pay, and the employee received the commensurate salary of the new level at the time of the promotion.

c) Effective February 3, 2014 attorneys hired on or after September 5, 2011 and who remained in the salary step he/she was hired into shall, have his/her salary step adjusted to the salary step he/she would have been eligible for based upon ordinance section A25-660 and A25-661 if the attorney would have otherwise received a salary step increase except for the provisions of (a) above. Should an attorney have received a salary step increase except for the provisions of (a) above, between September 2, 2013 to February 2, 2014 he/she shall have his/her salary step adjusted in accordance with ordinance section A25-660 and A25-661.

4.3 – Retirement

Public Employees Retirement System

Definition for “Classic PERS Member” and “New PERS Member” (PEPRA Member) in PERS:

As a result of the Public Employee Pension Reform Act (PEPRA), Classic PERS Member miscellaneous employee shall refer to an employee who is eligible for and placed in the 2.5% at age 55 retirement tier. “New PERS Member” (PEPRA Member) miscellaneous employee shall refer to an employee who is eligible for and placed in the 2% at age 62 retirement plan.

The County's payment of five and one quarter percent (5.25%) of the reportable PERS compensation on behalf of an attorney for the employee contribution to the California Public Employees’ Retirement System (PERS) shall be included in the effective wage and shall be reflected in Appendix A through February 2, 2014.

For Classic PERS Member (Classic Member) Employees

The County amended its contract with PERS effective December 17, 2007 for the 2.5% at 55 Plan for Classic PERS Member miscellaneous employees. In consideration for this amendment the Association agreed for each employee covered under this benefit to contribute to PERS, through payroll deduction effective December 17, 2007, an amount equal to 2.931% of PERS reportable gross pay for the duration of this Agreement, as well as the entire 8% PERS member share contribution toward the Employer’s share for a total PERS contribution rate of 10.931% of PERS
reportable gross pay. This eliminates the Employer Paid Member Contribution (EPMC). This shall not apply to extra help employees.

**New PERS Member (PEPRA Member) Employees**
The PEPRA Member shall pay 5% towards the employer share, in addition to the required PEPRA contribution (at least 50% of normal costs). This shall not apply to extra help employees.

4.4 - Automatic Payroll Deposit
All employees shall be paid by automatic payroll deposit by electronic fund transfer.

4.5 - Overpayment / Shortage Errors
When an overpayment error occurs, the amount shall be repaid in the same amount and within the same number of pay periods in which the error occurs.

When a shortage error occurs in an Attorney's paycheck, the shortage shall be adjusted on the next full payroll period following notice of the error to Payroll/Controller's. This provision shall cover only those discrepancies above a net two hundred dollars ($200.00) of base pay.

4.6 - Chief Trial Attorney Differential
One employee in this classification series when designated by department management to assume responsibility as Chief Trial Attorney shall receive a differential based on a rate, which is approximately 10% above the salary range. This applies only to the Office of the District Attorney and the Office of the Public Defender.

A lead attorney from Department of Child Support Services assigned the attorney of record duties shall receive a differential based on a rate which is approximately 10% above the salary range. This assignment will be at the discretion of the Director.

No employee covered by this Agreement may receive more than one differential included in this Agreement.

4.7 - Leads
Employees in this class series when designated by the department management to assume lead responsibilities over an organizational unit approved by the County Executive to warrant such lead supervision shall receive a differential based on a rate which is approximately 5% above the employees' salary range.

**SECTION 5 - PROFESSIONAL DEVELOPMENT ALLOWANCE**
5.1 - Professional Development Allowance
a) Effective August 15, 1994, the County will administer and fund, on a matching basis, up to thirty-five thousand dollars ($35,000) per fiscal year for individual professional development and for education. Effective July 1, 2006, the County will administer and fund, on a matching basis up to fifty thousand dollars ($50,000) per fiscal year per capita between the Office of the District Attorney, the Office of the Public Defender, and the Department of Child Support Services. This amount is over and above the tuition reimbursement program of the County, minimum continuing legal education reimbursement program, and the departmental programs as presently funded/budgeted. Matching for expenses shall be on a 50/50 basis.
All programs must be approved by the Department and the Association before time off or payment is granted. In the event of a disagreement between the Department and the Association, the disagreement will be settled by the Employee Services Agency.

b) The Professional Development Allowance will be allocated amongst the Office of the District Attorney, the Office of the Public Defender, and the Department of Child Support Services based on the percentage of funded coded attorney positions authorized on July 1st of each fiscal year.

c) Electronic items eligible for reimbursement from the Professional Development Allowance will be limited to lap top computers, tablets and “smart” phones.

5.2 - Minimum Continuing Legal Education
Effective August 15, 1994 the County shall provide a fund of twenty-seven thousand five hundred dollars ($27,500) per fiscal year to provide reimbursement to members of this unit for the costs of State required continuing legal education. Effective July 1, 2006, the County will administer and fund up to ninety-five thousand dollars ($95,000) per fiscal year per capita between the Office of the District Attorney, the Office of the Public Defender, and the Department of Child Support Services. Funds will be provided in accordance with the following conditions:

a) Total reimbursement for each attorney will not exceed one hundred fifty dollars ($150.00) per fiscal year. Effective July 1, 2006 the MCLE Fund individual cap shall be increased to four hundred fifty dollars ($450.00) per fiscal year. Effective July 1, 2014 the MCLE Fund individual cap shall be increased to six hundred dollars ($600.00) per fiscal year.

b) Attorneys may receive reimbursement for fees, tuition, books and related approved costs if the educational activity qualifies for State mandated continuing legal education.

c) Attorneys must apply for reimbursement by submitting to their respective Department the form provided by the County prior to commencement of the educational activity.

d) Funds for this provision will be paid to attorneys with approved application for reimbursement under this program upon presentation of appropriate confirmation that the educational activity was successfully completed in accordance with State Bar requirements and on a first come first serve basis.

e) At the time of reimbursement attorneys will sign an agreement authorizing the deduction of one-hundred percent (100%) of the amount of the reimbursement in the event the attorney leaves County employment within one (1) year after satisfactory completion of the educational activity.

f) Eligible attorneys are required to seek reimbursement from this fund first for MCLE courses. Any remaining expenses may be reimbursed through regular professional development (Section 5) or tuition reimbursement (Section 6). In no event shall the reimbursement exceed the maximum allowed under the appropriate fund or the cost of the educational activity.
SECTION 6 – TUITION REIMBURSEMENT
Employees in this unit shall continue to be eligible to participate in the Tuition Reimbursement Program of the County as administered by the Employee Services Agency.

SECTION 7 – EDUCATIONAL OPPORTUNITY LEAVE
Employees who attend educational courses, which courses have been approved by the Department and which are taken on the employee's day off, shall be credited up to sixteen (16) hours per year as follows:

1. Time charged to educational leave and time added to vacation balance, or;

2. Time charged to educational leave and time off given during the same pay period as that when the course was taken.

SECTION 8 – PAYMENT OF STATE BAR, COUNTY BAR & PROFESSIONAL ASSOCIATION DUES
The County shall annually pay on behalf of each employee covered by this Memorandum of Agreement the full amount of such employee’s yearly dues to the State Bar of California. Each employee must present to his/her Department the annual dues statement within ninety (90) days of receipt in order to be eligible for such payment.

In addition, the County shall annually reimburse the employee covered by this Memorandum of Agreement, who is a DCSS Attorney, a portion of the employee's yearly dues to the Santa Clara County Bar Association on a 50% (County) and 50% (employee) basis should the employee join or renew membership in the County Bar Association.

The County shall annually pay on behalf of each DA employee covered by this Memorandum of Agreement the full amount of such employee’s yearly or renewal dues to the California District Attorneys Association (CDAA), for those covered employees who opt in for membership within 30 days of the deadline for payment as determined by CDAA.

The County shall annually pay on behalf of each PD employee covered by this Memorandum of Agreement the full amount of such employee’s yearly or renewal dues to the California Public Defenders Association (CPDA), for those covered employees who opt in for membership by January 15 for payment as determined by CPDA.

New employees will be given the opportunity to opt in to CDAA/CPDA at the time of hire.

Membership in any such organization (other than the State Bar) is strictly voluntary.

SECTION 9 – LEGAL REPRESENTATION
The County's obligation to defend and indemnify its officers and employees is prescribed by California Government Code Sections 825 et seq. and 995 et seq. The County shall indemnify and defend employees in this unit in accordance with the applicable law when and if they are sued for acts, errors or omissions within the course and scope of their duties, save and except where the applicable law excuses County's obligation to defend (e.g., fraud, malice, etc.). This paragraph and the terms and conditions thereof shall be enforceable, at law in accordance with the applicable law, but shall not be subject to the grievance provision of the County Ordinance Code.
SECTION 10 – OUT OF COUNTY LITIGATION
Consistent with Santa Clara County Ordinance Code Section A31-2(c) the County shall pay as follows:

Whenever an employee of the District Attorney's or Public Defender's Offices participates in the trial of a case lasting longer than twenty (20) working days which the court has ordered to be tried outside of Santa Clara County, each such employee shall thereafter be entitled to receive an allowance of fifty dollars $50.00 additional per working day, provided that such payment shall not be paid when the court in the county of trial is located within reasonable daily commuting distance, nor shall such payments be paid for any biweekly pay period in which the employee is required to work out of county less than seven work days. Claims may be submitted at any time prior to the close of the fiscal year in which the trial concludes but not later than forty-five days following the conclusion of the trial.

SECTION 11 – REIMBURSEMENT FOR USE OF PRIVATE VEHICLES
Attorneys required to travel on business for the County and who have been authorized to use and does use a privately owned vehicle shall be reimbursed mileage in accordance with the County travel policy.

SECTION 12 – WORK OUT OF CLASSIFICATION
The County agrees that if the position of Assistant or Chief Assistant Public Defender, or Assistant or Chief Assistant District Attorney is vacant and an employee is assigned all the significant duties of either of such positions, the employee(s) assigned said duties shall be paid at the rate of the higher classification so long as he/she performs the duties of that classification; minimum assignment three (3) weeks.

SECTION 13 – RULES FOR PROMOTION
Should an attorney submit a promotional packet, he/she shall be provided a response of an approval or denial of such promotion by management within 60 days. Nothing in this section shall commit a department to make the effective date of the promotion within 60 days. Upon request, an attorney shall be provided such response in writing. Promotions are merit system examinations, and therefore denial and effective date of such promotion are not subject to the grievance procedure under Section 19 - Grievance Procedure.

SECTION 14 – LEAD ATTORNEY DUTIES
This provision covers those attorneys assigned lead supervision duties. Attorneys assigned lead duties by their respective department shall be paid a differential pursuant to the salary ordinance. Lead attorneys duties shall consist of the following:

a) Assign, distribute and adjust short-term workloads;

b) Resolve work-related problems within guidelines set by management;

c) Keep appraised of progress of work of the team they lead;

d) Assist management in reviewing work;
e) Train, mentor and coach attorneys on the team they lead;

f) Provide input to management regarding an attorney’s performance (including performance appraisals) – such input shall be advisory;

g) Assist in implementing policies and procedures developed by management;

h) Assist management in the interview process for new attorneys – such input shall be advisory;

i) Initiate and participate in investigatory interviews;

j) Issue verbal/written counselings;

k) Provide advisory input to management on issuance of letters of reprimands and disciplinary actions;

l) Other related duties as assigned.

SECTION 15 – DISCIPLINARY PROCESS FOR ATTORNEYS IN THE DISTRICT ATTORNEYS OFFICE

The intent of progressive discipline is to be corrective in nature where appropriate; progressive discipline may allow an attorney to correct behavior and/or change behavior going forward. The County may use progressive discipline in addressing the behavior of an attorney. However, the circumstances of each case dictate the appropriate disciplinary response and the County reserves the right to skip one or all levels of progressive discipline. The County and the Union agree that the level of discipline recommended for any instance of discipline shall take into account the nature and seriousness of the offense as well as the attorney’s record (to include overall performance and the attorney’s previous counseling/disciplinary history, if any).

Any documented counseling (as compared to a letter of reprimand, suspension, demotion or termination) will not be placed in the attorney’s personnel file unless the corrective measures to address performance or conduct do not result in sustained improvement and is attached as documentation to support further disciplinary action or notice to the attorney regarding expectations of him/her.

Upon request, an attorney has a right to have a representative present at an investigatory meeting with the employer where it is reasonably likely that disciplinary action against that attorney may result. The attorney shall be given a reasonable period of time to identify a representative to have present.

The attorney may not unreasonably postpone the meeting to find a particular representative but may have to accept the presence of another representative who can be available within a reasonable period of time.

Securing representation is the responsibility of the attorney.
Letters of Reprimand
Should corrective measures to address performance or conduct not result in sustained improvement or should circumstances warrant in the County's opinion, the County may issue a letter of reprimand. Such a letter shall be served on the attorney in person or by mail (to include e-mail) and shall be included in the attorney's personnel file.

If requested by the attorney within 30 calendar days of issuance of the letter of reprimand, the attorney shall have the right to submit a written statement for an administrative review of the letter of reprimand by the District Attorney or his or her designee. Letters of reprimand shall be removed from the attorney's personnel file(s) after three years from the date of issuance, provided that no additional letter of reprimand or discipline has been issued to the attorney during the three year period. The County retains the right to use the letter of reprimand for notice purposes.

Recommended Disciplinary Action - Permanent Classified
The County may take disciplinary action for cause against any permanent classified attorney by suspension, demotion or discharge by notifying the attorney in writing. Notice of recommended disciplinary action must be served on the attorney in person or by certified mail and US mail. The notice shall not be included in the attorney's personnel file, unless disciplinary action becomes final. Copies shall be delivered to the Union in person or by mail (to include e-mail) and shall include:

a) The proposed level of discipline;

b) Statement of the nature of the disciplinary action;

c) Effective date of the action;

d) Statement of the cause thereof;

e) Statement in ordinary and concise language of the act or omissions upon which the cause(s) is/are based;

f) Statement of the attorney's right to respond, either orally at a meeting requested by the attorney, or in writing;

g) Statement advising the attorney of the right to Union representation.

Notice of Final Disciplinary Action - Permanent Classified
The County may take disciplinary action for cause against any permanent classified attorney by suspension, demotion or discharge by notifying the attorney in writing. Notice of final disciplinary action shall be served on the attorney in person or by certified mail before the disciplinary action becomes effective. The notice shall include a statement of the attorney's right to appeal to the Personnel Board. The notice of final disciplinary action shall be attached to the recommended disciplinary action notice and included in the attorney's personnel file. Copies shall be delivered to the Union in person or by regular mail (to include e-mail).
SECTION 16 – PERSONNEL FILES
The County shall maintain a personnel file for each attorney. The department may also maintain a personnel file for each attorney. Attorneys shall have the right to review both of their personnel files or authorize review by their designated representative. To authorize that review, the written attorney's written authorization must be served in person on the Employee Services Agency custodian of records or his/her designee. No disciplinary material will be inserted into the attorney's personnel files without prior notice to the attorney. Attorneys may cause to be placed in their personnel files written responses to adverse material inserted therein.

SECTION 17 – THREAT ASSESSMENT
Should a department or an Attorney become aware of a potential threat to an attorney the department shall notify the Attorney and his/her chain of command and conduct an assessment of such threat. The department shall notify the attorney of its findings related to the threat. When necessary, the department shall facilitate safety measures including, but not limited to, providing alternative parking and assistance in obtaining temporary restraining orders.

SECTION 18 – LAYOFF
Layoff of employees in this bargaining unit shall occur within the department only, and there shall be no cross departmental claiming of vacancies as listed in County Ordinance A25-625. In addition, names of employees on a re-employment list per A25-627 shall only be certified to the department from which the employee was laid off. Except as otherwise set forth herein, the present provisions of County Ordinance Sections A25-620 through A25-630 shall apply.

Employees subject to the provisions of this Section shall be given at least twenty (20) working days written notice prior to the effective date of layoff. The Association shall receive concurrent notice, and upon request, shall be afforded an opportunity to meet with the County to discuss any proposed alternatives.

Seniority Defined
For purposes of layoff, seniority is defined as days of accrued service as recorded on an Attorney’s paycheck.

Order of Layoff
When the County determines that positions will be reduced or eliminated which results in a layoff, the order of seniority shall be based on seniority as applied to each classification. The order shall be:

a) Provisional Attorneys in inverse seniority;
b) Attorneys on original probation in inverse seniority;
c) Permanent Attorneys in inverse seniority.

Attorneys affected shall be reassigned as follows:

a) To a vacant position in the same or lower classification; or if no such position exists,
b) To a position held by the least senior individual in the same or lower classification.
SECTION 19 – ALTERNATE STAFFING
Each of the three departments covered by this Agreement shall continue to be alternately staffed from Attorney I to Attorney IV during the term of this Agreement.

SECTION 20 – INSURANCE PREMIUMS
20.1 - Medical Insurance
a) Insurance Plans
The County and covered employees share in the cost of medical plan premiums. The County, in order to provide one health plan where there is not premium sharing, shall continue to offer Valley Health Plan without premium sharing. The County will pay the cost of any premiums for “employee only” and “employee plus dependent” tiers that is not covered by the employees’ share of the premium.

The current employee share per pay period is as follows:

Valley Health Plan $0 Employee only, $0 Employee and Adult; $0 Employee and child(ren), $0 Family

HMO (currently Kaiser) plan $0 Employee only, $11.16 Employee and child(ren), $13.02 Employee and Adult, $17.98 Family

Point of Service (POS - currently HealthNet) Plan 0% Employee only, $52.83 Family

Effective June 6, 2016, for tiers with dependent coverage in the HMO or POS plan, the employee share of premiums shall increase by 10% of the increase in premiums for those tiers, and the employee-only share shall remain at $0. In each year thereafter, employees will continue to pay ten percent (10%) of future premium increases on the POS and HMO plans (not VHP).

For County employees occupying permanent part-time positions who work a minimum of 40 hours per pay period, the County will pay a prorated portion of the medical plan premiums described above based upon the covered worker’s standard hours.

In addition to VHP, the County shall maintain HMO and POS plans.

The HMO plan design shall be:
$10 co-payment for office visits;
$35 co-payment for emergency room visits;
$5-$10 co-payment for prescriptions (30-day supply);
$10-$20 co-payment for prescriptions (100-day supply);
$100 co-payment for hospital admission.

The Point of Service Plan design shall be:
$15/$20/30% (Tiers 1/2/3) co-payment for office visits;
$50/$75/30% co-payment for emergency room visits;
$5/$15/$30 (generic/brand/formulary) co-payment for prescription (30-day supply);
$10/$30/$60 co-payment for prescription (90-day supply).
Hearing aid coverage shall be in all health plans.

The County shall pay the employee single rate premium while the covered employee is on medical, maternity or industrial injury leave of absence up to thirteen (13) pay periods.

b) Domestic Partners
   1) Registered Domestic Partners
      County employees who have filed a Declaration of Registered Domestic Partnership in accordance with the provisions of Family Code 297-297.5 shall have the same rights, and shall be subject to the same responsibilities and obligations as are granted to and imposed on spouses. The term spouse in the contract shall apply to Registered Domestic Partners.

   2) Tax Liability
      Employees are solely responsibility for paying any tax liability resulting from benefits provided as a result of their domestic partnership.

c) Dual Coverage
   If an employee is married to, or is the domestic partner of another employee covered by the County health plans, both cannot have employee and dependent coverage. Only one can choose employee and dependent coverage, and the other may choose employee only coverage.

   20.2 Medical Benefits for Retirees
   a) For Employees Hired before August 12, 1996:
      The County shall contribute an amount equal to the cost of Kaiser retiree-only medical plan premium to the cost of the medical plan of employees who have completed five (5) years of service (1,305 days of accrued service) or more with the County and who retire on PERS directly from the County on or after December 5, 1983. Retirees over sixty-five (65) who are eligible for Medicare part B must be enrolled in such a plan. The surviving spouse or the domestic partner (as described in the Domestic partner Section of this agreement) of an employee eligible for retiree medical benefits may continue to purchase medical coverage after the death of the retiree.

   b) For Employees Hired on or after August 12, 1996:
      The County shall contribute an amount equal to the cost of Kaiser retiree-only medical plan premium to the cost of the medical plan of employees who have completed eight (8) years of service (2,088 days of accrued service) or more with the County and who retire on PERS directly from the County on or after December 5, 1983. Retirees over the age of sixty-five (65) who are eligible for Medicare part B must be enrolled in such a plan. The surviving spouse or the domestic partner (as described in the Domestic partner Section of this agreement) of an employee eligible for retiree medical benefits may continue to purchase medical coverage after the death of the retiree.

   c) For Employees hired on or after June 19, 2006:
      The County shall contribute an amount equal to the cost of Kaiser retiree-only medical plan premium to the cost of the medical plan of employees who have completed ten (10) years
of service (2610 days of accrued service) or more with the County and who retire on PERS directly from the County. Retirees over 65 or otherwise eligible for Medicare Part B must be enrolled in such a plan. This reimbursement is subject to the maximum County contribution for retiree medical. The surviving spouse or domestic partner (as described in the Domestic partner Section of this agreement) of an employee eligible for retiree medical benefits may continue to purchase medical coverage after the death of the retiree.

d) For employees hired on or after February 3, 2014:
The County shall contribute an amount equal to the cost of Kaiser retiree-only medical plan premium to the cost of the medical plan of employees who have completed fifteen (15) years of service (3,915 days of accrued service) or more with the County and who retire on PERS directly from the County. Retirees over 65 or otherwise eligible for Medicare Part B must be enrolled in such a plan, and the County shall reimburse the retiree for the cost of Medicare Part B premium on a quarterly basis. This reimbursement is subject to the maximum County contribution for retiree medical. The surviving spouse or domestic partner (as defined in Domestic Partner Section) of an employee eligible for retiree medical benefits may continue to purchase medical coverage after the death of the retiree.

e) Such years of service expressed in Sections 20.2 a), b), c) and d) must be continuous service with the County and shall have been completed immediately preceding retirement directly on PERS from the County.

f) Employee Contribution Toward Retiree Medical Obligation Unfunded Liability:

Effective pay period December 21, 2015 all coded employees shall contribute on a biweekly basis thirteen dollars and fifty cents ($13.50) toward the retiree medical obligation unfunded liability. Such contributions are to be made on a pre-tax basis, and employees shall have no vested right to the contributions made by the employees. Such contributions shall be used by the County exclusively to offset a portion of the County’s annual required contribution amount to the California Employers Retirement Benefit Trust established for the express purpose of meeting the County’s other post-employment benefits (OPEB) obligations and shall not be used for any other purpose.

20.3 - Dental Insurance
The County agrees to contribute the amount of sixty-three dollars and fifty-seven cents ($63.57) per month effective July 1, 1997, and agrees to pick up the inflationary costs during the term of this Agreement. The County will continue to provide an alternative dental plan. The alternative dental plan will be an HMO type dental plan. The County will contribute up to the same dollar amount to this alternative dental plan premium as is paid to the Delta Dental Plan.

20.4 - Vision Insurance
The County will offer a "Vision Care" Plan to employees and their families. The Plan will be the Vision Service Plan - Plan A with benefits at 12/24/24 month intervals with $20.00/$20.00 deductible for examinations and materials. The County agrees to contribute eight dollars and fifteen cents ($8.15) per month for this employee and dependent benefit and to pick up inflationary costs during the term of this Agreement.
20.5 - Life Insurance
The County agrees to continue the existing base group life insurance plan of twenty-five thousand dollars ($25,000) per employee for the term of the Agreement.

20.6 - Employee Wellness Committee
During the term of this Agreement the Association and the Employee Services Agency agree to create a Joint Committee to explore options, potential resources and/or joint activities that serve to promote, enhance and benefit employee wellness. The Association and County further agree that no funds are committed for this purpose and that all Joint Committee outcomes/decisions require mutual agreement.

20.7 - LTD Side Letter
Pursuant to the Long Term Disability (LTD) insurance side letter between the County and GAA signed October 10, 1997, employees shall pay all premium costs for LTD insurance coverage (currently through The Standard Insurance Company), which shall continue to be deducted from the employees' paycheck.

Effective February 3, 2014, the County will resume payments of up to $0.45/$100 of covered salary for the LTD plan.

Effective December 21, 2015 (pay period 16/01), through December 17, 2017 (pay period 17/26), the County will pay the full cost of the LTD plan. The employees shall resume paying the employee portion of premiums effective December 18, 2017.

20.8 - High Deductible Health Plan (HDHP)
The parties agree to investigate the feasibility of adding by mutual agreement a High Deductible Health Plan (HDHP) with or without Health Savings Account (HSA) or Health Reimbursement Account (HRA) as an option to current health plans.

20.9 - Valley Health Plan (VHP)
Upon request the parties agree to meet to discuss the possibility of modifying VHP into two separate plan designs.

20.10 - Medical Insurance Benefits
Medical insurance benefits, as described in Section 20.1 shall not be modified except by mutual agreement through July 1, 2017. After June 30, 2017, employees in the bargaining unit who are entitled to health insurance coverage as described in Section 20.1 shall be offered the health plans and benefit levels that are no less than those received by the majority of County employees in coded positions. Upon request of the Union, the County shall meet over the impact of changes in carriers, plans, plan designs, and/or medical flexible spending accounts that may occur to address, negate or mitigate the imposition on the County of the federal excise tax in the Affordable Care Act.
SECTION 21 – LEAVES
21.1 - Scheduled Time Off (STO)

a) Accrual
Each employee shall be entitled to annual Scheduled Time Off. Scheduled time off is earned on an hourly basis. For purposes of this section, a day is defined as eight (8) work hours. The accrual schedule shall be as follows:

<table>
<thead>
<tr>
<th>SERVICE YEARS &amp; WORK DAY EQUIVALENT</th>
<th>TOTAL YEARLY ACCRUAL IN WORK DAYS</th>
<th>HOURLY ACCRUAL FACTOR PER HOUR</th>
<th>ACCRUAL FACTOR PER PP</th>
<th>MAXIMUM ALLOWABLE BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year</td>
<td>19</td>
<td>.073076</td>
<td>5.846</td>
<td>57 work days</td>
</tr>
<tr>
<td>1st through 261 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd through 4th year</td>
<td>21</td>
<td>.080769</td>
<td>6.461</td>
<td>63 work days</td>
</tr>
<tr>
<td>262 through 1044 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5th through 9th year</td>
<td>25</td>
<td>.096153</td>
<td>7.692</td>
<td>75 work days</td>
</tr>
<tr>
<td>1045 through 2349 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10th through 14th year</td>
<td>27</td>
<td>.103846</td>
<td>8.307</td>
<td>81 work days</td>
</tr>
<tr>
<td>2350 through 3654 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15th through 19th year</td>
<td>29</td>
<td>.111538</td>
<td>8.923</td>
<td>87 work days</td>
</tr>
<tr>
<td>3655 through 4959 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20th and thereafter</td>
<td>31</td>
<td>.119230</td>
<td>9.538</td>
<td>93 work days</td>
</tr>
<tr>
<td>4960 days</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b) Pre-Scheduled Usage
Scheduled Time Off may be used for any lawful purpose by the employee; the time requested shall require the approval of management with due consideration of employee convenience and administrative requirements.

c) Scheduled Time Off Bank Carry Over
In the event the employee does not take all the scheduled time off to which entitled in the succeeding twenty-six (26) pay periods, the employee shall be allowed to carry over the unused portion, provided that the employee may not accumulate more than three (3) years' earnings except:

- When absent on full salary due to work-related compensation injury which prevents the employee reducing credits to the maximum allowable amount, or

- In the case of inability to take paid time off because of extreme emergency, such as fire, flood or other similar disaster, an additional accumulation may be approved by the County Executive.
• In the case of inability to take paid time off because of extreme work demands, such as trial schedules or grand jury, an additional accumulation of paid time off may be approved the County Executive. The decision of the County Executive is final and binding, and may not be grieved under Section 23 of this MOA.

d) Scheduled Time Off Bank Pay-Off
Upon termination of employment an employee shall be paid the monetary value of the earned Scheduled Time Off balance as of the actual date of termination of employment.

21.2 - Sick Leave
a) Sick leave Bank accrual
Each employee shall be entitled to an annual sick leave bank accrual. Sick leave is accrued on an hourly basis and computed at the rate of sixty-four (64) hours per year and may be accrued without limitation. The accrual factor per hour is .030769 and the accrual factor per full pay period is 2.462.

b) First Day Usage
Prior Contract History: Four days (32 hours) of sick leave were converted into the STO accrual leaving employees to accrue 8 days (64 hours) of sick leave instead of 12 days (96 hours). These additional four days of STO were integrated into the STO yearly accrual rate (Section 21.1).

Effective Pay Period 14/01, December 23, 2013, to allow more flexibility in the use of an employee’s accrued leave banks while maintaining the eligibility for cash out, the following terms shall apply:

During each payroll calendar year employees may use up to a maximum of 32 hours of STO for absences due to personal illness or any other absences which are chargeable to sick leave in accordance with the following terms:

• For the purpose of first day usage, a day is defined as 8 hours.
• For employees who work less than full time, the first day STO and the requirement of 32 hours of STO usage would be prorated.
• The first 8 hours of such absences shall be charged to STO.
• Employees working longer shifts have the option of using STO or sick leave for the remainder of the shift.
• If the STO bank is exhausted, the first 8 hours shall be Leave Without Pay.
• Such absences beyond the first 8 hours shall be charged to sick leave unless the employee requests to use STO up to a maximum of 32 hours.
• After using 32 hours of STO for such absences within each payroll calendar year, subsequent absences shall be charged to sick leave including the first day.
• For the purpose of this section, absences chargeable to sick leave include but are not limited to family care usage and bereavement leave.
For employees who are hired into the bargaining unit after the beginning of the payroll calendar year, the requirement to use 32 hours of STO shall not be prorated. Such sick leave bank usage must be approved by management.

c) Family Care Usage
An employee is entitled to use one-half (1/2) of his/her annual accrued leave in order to care for a sick or injured member of the employee's immediate family requiring care. The initial period of time granted, up to one full day, must be charged to the STO bank unless the employee has used 32 hours of STO for absences outlined in 21.2 (b), in which case the leave is charged to sick leave, not STO. "Immediate family" shall mean the mother, father, grandmother, grandfather of the employee or spouse or registered domestic partner of the employee and the spouse, registered domestic partner, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee or any person living in the immediate household of the employee.

d) Doctor's Notes
Request for sick leave with pay in excess of three (3) working days must be supported by a statement from an accredited physician. Management may require such a supporting statement for absences less than three (3) days.

e) Bereavement Leave
Leaves of absence with pay shall be granted employees in order that they may discharge the customary obligations arising from the death of a member of their immediate family. "Immediate family" shall mean the mother, father, grandmother, grandfather of the employee or of the spouse of the employee and the spouse, son, son-in-law, daughter, daughter-in-law, brother, sister, brother-in-law, sister-in-law, or grandchild of the employee or any person living in the immediate household of the employee. Up to five (5) days with pay shall be granted. The first two (2) days shall not be charged to any employee bank. If necessary, the third day shall be charged to the STO bank and the fourth and fifth days to the sick leave bank.

f) Sick Leave Bank Pay Off
Upon death, retirement or resignation in good standing, an employee shall be paid for any balance in the sick leave bank at the following rate.

<table>
<thead>
<tr>
<th>Days of Service</th>
<th>% Paid at</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 through 2610</td>
<td>0%</td>
</tr>
<tr>
<td>2611 &quot; 2871</td>
<td>20%</td>
</tr>
<tr>
<td>2872 &quot; 3132</td>
<td>22%</td>
</tr>
<tr>
<td>3133 &quot; 3393</td>
<td>24%</td>
</tr>
<tr>
<td>3394 &quot; 3654</td>
<td>26%</td>
</tr>
<tr>
<td>3655 &quot; 3915</td>
<td>28%</td>
</tr>
<tr>
<td>3916 &quot; 4176</td>
<td>30%</td>
</tr>
<tr>
<td>4177 &quot; 4437</td>
<td>32%</td>
</tr>
<tr>
<td>4438 &quot; 4698</td>
<td>34%</td>
</tr>
<tr>
<td>4699 &quot; 4959</td>
<td>36%</td>
</tr>
</tbody>
</table>
4960  "  5220  38%
5221  "  5481  40%
5482  "  5742  42%
5743  "  6003  44%
6004  "  6264  46%
6265  "  6525  48%
6526  "  accumulation  50%

Reinstatement Pay Back
Employees receiving a sick leave bank payoff in accordance with Section g) may, if reinstated within one (1) year, repay the full amount of sick leave bank payoff received and have the former sick leave bank balance restored. Repayment in full must be made prior to reinstatement.

h) STO Cash Out
Effective December 23, 2013 attorneys who use no more than 16 hours of sick leave for a period of one year beginning pay period 14/01, December 23, 2013 through pay period 14/26 December 21, 2014 and each December to December period thereafter during the term of this agreement, shall be allowed to cash out forty (40) hours of STO. Those employees who use no sick leave during that period have an option to cash out an additional forty (40) hours STO (for a total of 80 hours). Eligible employees shall submit their request to ESA-Human Resources during the month of January and payment shall be during the month of February. Payments are based on the employee's rate of pay as of pay period 02 as the case may be for each respective year. No cash out can be prorated.

Sick leave charged for any purpose (i.e., bereavement leave) is used to determine STO cash out ability.

21.3 - Medical and Family Leave
a) Maternity Leave
1. Length
Upon request, maternity leave without pay shall be granted to natural or adoptive parents by the appointing authority for a period of up to six (6) months. With notice no less than one (1) month prior to the conclusion of the leave, such leave may be extended for an additional six (6) months upon approval of the appointing authority. A request for extension can only be denied for good cause. An employee who is pregnant may continue to work as long as her physician approves. Adoptive parents shall not be covered by County medical benefits while on maternity leave except as otherwise provided by law.

2. Sick Leave Use
If, during the pregnancy leave or following the birth of a child, the employee's physician certifies that she is unable to perform the duties of her job she may use her accumulated sick leave during the period certified by the physician.
b) **Paternity Leave**
Upon request, paternity leave without pay shall be granted to natural or adoptive parents not to exceed six (6) months. The County shall pay up to twelve (12) weeks of employee and dependent coverage subject to the applicable co-payments, in accordance with the County's Family and Medical Leave Policy.

c) **Other Family Leave**
Upon request, family leave shall be granted for the placement of a foster child or to attend to the serious illness of a family member in accordance with the County's Family and Medical Leave Policy, for a period of up to six (6) months. The County shall pay up to twelve (12) weeks of employee and dependent coverage, subject to the applicable co-payments, in accordance with the County's Family and Medical Leave Policy.

21.4 - **Administrative Leave**
Employees are designated by the County as “exempt” employees under the Fair Labor Standards Act (FLSA). Employees are salaried employees who are expected to work the number of hours necessary to fulfill the duties of the position without overtime pay. Depending on the circumstances, employees may work more or less than forty hours in any particular week.

Recognizing the above, employees may be granted time off without charge to any leave bank under “administrative leave” if the manager determines that the service delivery and performance of job functions will not be impaired because of the absences from work. Such time off should not be calculated on an hour-for-hour basis in relation to excess hours worked.

Administrative time off must be:
- Scheduled in advance when possible
- Approved as administrative leave by the manager, and
- Normally taken in increments of less than one day.

An employee need not state a reason for requesting the time off. Either it is or it is not appropriate to grant the time off under the circumstances outlined above. An employee can make the request and use the administrative time off for any purpose without the necessity to state a reason.

For a full day's absence under “administrative leave” an executive manager’s approval is required. Approved requests should be maintained for periodic audit by the Internal Audit Division. While discretionary for less than a full day’s absence, full day increments of administrative leave must be reported in the payroll system.

a) **Limitations on Administrative Leave**
Departments may approve up to eighty (80) hours of administrative leave per calendar year for an individual attorney. Administrative leave in excess of eighty (80) hours requires the approval of an executive manager and the Personnel Director.

b) **Homicide On-Call**
Separate from the eighty (80) hours as noted in (a) above, an additional eight (8) hours of administrative leave will be granted for the completion of one full week of assigned
homicide on-call duty which includes evenings and weekends. Should an attorney be called to respond and does respond while assigned to homicide on-call, he/she may be granted an additional eight (8) hours. Attorneys assigned to homicide on-call shall receive an additional four (4) hours if assigned during a week that includes a legal holiday. No employee shall receive administrative leave under this provision unless assigned and approved by management.

c) Search Warrant On-Call
Separate from the eighty (80) hours as noted in (a) or as listed in (b) above, an additional eight (8) hours of administrative leave will be granted for the completion of one full week of assigned search warrant on-call duty which includes evenings and weekends. Should an attorney be called to respond and does respond while assigned to search warrant on-call, he/she may be granted an additional eight (8) hours. Attorneys assigned to search warrant on-call shall receive an additional four (4) hours if assigned during a week that includes a legal holiday. No employee shall receive administrative leave under this provision unless assigned and approved by management.

d) Ride-Along
Separate from the eighty (80) hours as noted in (a) or as listed in (b) and (c) above, an additional forty (40) hours of administrative leave may be granted for the completion of ride-along, but in no case may more than forty (40) hours be granted for this purpose. This forty (40) hours cap may only be granted on a one-time basis during an employee’s career as an attorney for the County of Santa Clara and is not granted on an annual basis.

21.5 - Leave Without Pay
a) Reasons Granted
Leaves of absence without pay may be granted an attorney for up to one (1) year. Extensions to leaves approved for less than one (1) year shall not unreasonably be denied provided adequate advance notice is given. If an attorney wishes to return to work early from a leave of absence, he/she shall provide reasonable advance notice of at least twenty (20) working days to the appointing authority. Leaves beyond one (1) year may be granted due to unusual or special circumstances. The following are approved reasons for such leave:

a) Illness beyond that covered by sick leave.
b) Education or training which will benefit the County.
c) Other personal reasons which do not cause inconvenience on the department.

b) Revocation
A leave may be revoked by the Director of Personnel upon evidence that the cause for granting it was misrepresented or has ceased to exist.

SECTION 22 – PARITY
The Parties agree that, during the term of this Agreement, County-wide changes in benefits, such as medical, dental, life insurance, vacation, sick leave, holidays, or retirement, shall be applied to employees in this unit. The County agrees to provide notice to the Association in advance of any
anticipated changes in benefits as early as possible, to provide an opportunity for the Association to discuss such changes with the County.

SECTION 23 – GRIEVANCE PROCEDURE
The County and the Association recognize early settlement of grievances is essential to sound employee-employer relations. The parties seek to establish a mutually satisfactory method for the settlement of grievances of attorneys, the Association, or the County. In presenting a grievance, the aggrieved and/or the aggrieved's representative is assured freedom from restraint, interference, coercion, discrimination or reprisal.

23.1 - Grievance Related Release Time
A reasonable amount of release time shall be granted for investigating and processing a grievance.

23.2 - Grievance Defined
a) A grievance may only be filed if it relates to:
   1. Pay administration and other items relating to pay as in County ordinances.
   2. Alleged violations of Merit System Rules.
   3. Alleged discriminatory or capricious use of departmental powers deemed discretionary under the Merit System Rules.
   5. Alleged violations of memoranda of understanding and/or agreement.
   7. Disciplinary actions taken under Section 708 of the County Charter, where the attorney voluntarily waives his/her right to appeal disciplinary actions to the Personnel Board.

b) Matters excluded from consideration under the grievance procedure:
   1. Disciplinary actions taken under Section 708 of the County Charter, except where the attorney voluntarily waives his/her right to appeal disciplinary actions to the Personnel Board.
   2. Letters of Reprimand.
   5. Workload/Caseload.
   6. Merit System examinations.
7. Items requiring capital expenditure.
8. Items within the scope of representation and subject to the meet and confer process.

23.3 - Grievance Presentation
For the purposes of this procedure "attorney" is defined as any County employee in the classified service, regardless of status. Attorneys shall have the right to present their own grievance or do so through a representative of their own choice. Grievances may also be presented by a group of attorneys, by the Association or by the County. No grievance settlement may be made in violation of an existing rule, memorandum of agreement or memorandum of understanding nor shall any settlement be made which affects the rights or conditions of other attorneys represented by the Association without notification to and consultation with the Association.

The Association shall be provided copies of individual or group grievances and responses to same. Such grievances shall not proceed beyond Step One without written concurrence of the Association at each step.

The Association shall have the right to appear and be heard in all individual or group grievances at any step. Upon request by County, the Association shall appear and be heard in such grievances at any step.

23.4 - Procedural Compliance
Association grievances shall comply with all foregoing provisions and procedures. The County shall not be required to reconsider a grievance previously settled with an attorney if renewed by the Association, unless it is alleged that such grievance settlement is in violation of an existing rule, memorandum of agreement, or memorandum of understanding.

A grievance is deemed to be presented or filed when is either received by the Office of Labor Relations if presented in person, by facsimile, or by electronic mail (when coupled with another delivery method); or on the day it is postmarked, whichever occurs first.

A response by the County is deemed to be made when it is either received by the Association in person, by facsimile, or by electronic mail (when coupled with another delivery method); or on the day it is postmarked, whichever occurs first.

23.5 - Informal Resolution/Time Limits
It is agreed attorneys will be encouraged to act promptly through informal discussion with immediate superior on any act, condition or circumstance which is causing attorney dissatisfaction and to seek action to remove the cause of dissatisfaction before it serves as the basis for a formal grievance. Time limits may be extended or waived only by written agreement of the parties.

23.6 - Formal Grievance
a) Step One - Within thirty (30) working days of the occurrence or discovery of an alleged grievance, the grievance shall be presented in writing to the appointing authority. The Union shall send a copy of the grievance to Labor Relations and this copy shall dictate time limits. The grievance form shall contain information which:
1. Identifies the aggrieved;

2. The specific nature of the grievance;

3. The time or place of its occurrence;

4. The section of the MOA alleged to have been violated, improperly interpreted, applied or misapplied; or the area identified in Section 23.2 a) alleged to have been violated, improperly interpreted, applied or misapplied;

5. The consideration given or steps taken to secure informal resolution;

6. The corrective action desired; and

7. The name of any person or representative chosen by the attorney to enter the grievance. A decision shall be made by Labor Relations in writing within thirty (30) working days of receipt of the grievance. A copy shall be sent to the Association and this copy shall dictate the time limits.

8. At the request of either party, a meeting will be held within fifteen (15) days of receiving the grievance, for the purpose of a mutual exchange of information. If such a meeting is requested, the decision shall be due fifteen (15) working days from the date of the meeting.

9. Existing grievances shall not be amended to include additional alleged violations which occurred outside of the fifteen (15) work day time limit.

b) Step Two - If the aggrieved continues to be dissatisfied, he/she may, within fifteen (15) working days after receipt of the first step decision, direct a written presentation to the Director of Labor Relations indicating whether the aggrieved wishes the 1) Director to review and decide the merits of the case or whether 2) the aggrieved wishes the grievance to be referred to an impartial arbitrator mutually agreed upon or jointly selected from a panel provided by the State Mediation and Conciliation Service. The arbitrator's compensation and expenses shall be borne equally by the employee or the Association and the County.

Decisions by the Director of Labor Relations or the arbitrator shall be final and binding.

The Arbitrator shall be advised of and agree to the following provisions:

1. Within twenty (20) working days of receipt of the grievance at Step Two, one (1) arbitrator shall be selected from the panel and a hearing scheduled within thirty (30) calendar days.

2. If the selected arbitrator cannot be scheduled within one hundred twenty (120) calendar days, the parties will mutually agree to either another arbitrator or extend the time limits for the hearing.
3. Arbitration proceedings shall be recorded but not transcribed except at the request of either party or the arbitrator. Upon mutual agreement, the County and the Association may submit written briefs to the arbitrator for decision in lieu of the hearing. Unless mutually agreed, or ordered by the arbitrator, the requesting party shall be responsible for the entire cost of transcripts.

4. No matter other than a grievance that is an alleged violation of a specific provision(s) as written and submitted in the formal grievance may be reviewed on the merits by an arbitrator. This memorandum of agreement shall be submitted as a joint exhibit. Nothing in the agreement shall be construed to empower any arbitrator to change, modify or amend any of its provisions.

23.7 - Arbitration Panel
Unless mutually agreed, for the term of this agreement the County and the Association shall use the following panel:

Alexander Cohn  Morris Davis
Carol Vendrillo  Katherine Thomson
John Kagel

The parties may also mutually agree to choose another arbitrator not on the above list.

23.8 - Arbitration Release Time
The following statement on attorney participation in grievance arbitration hearings is agreed to:

a) The attorney on whose behalf the grievance has been filed will be granted release time for the entire hearing. Release time to serve as a witness will be granted on a scheduled basis, i.e., when the attorney is scheduled to appear. In the case of a group grievance, release time will be granted for the designated spokesperson for the entire hearing. One GAA representative will be granted release time to represent the attorney, on whose behalf the grievance has been filed, during the hearing.

b) Other requests for leave for the purpose of participation in a grievance arbitration hearing will also be granted and charged to the attorney’s own leave time - provided the absence does not unduly interfere with the performance of service.

SECTION 24 - VOLUNTARY REDUCED WORK HOURS
a) The County agrees to establish a Voluntary Reduced Work Hours (VRWH) Program for full-time attorneys represented by the Union. The purpose of the Program is to reduce work hours and a commensurate amount of pay on a voluntary basis.

b) Attorneys may elect a two and one-half percent (2 1/2%), five percent (5%), ten percent (10%), or twenty percent (20%) reduction in pay for a commensurate amount of time off for a six (6) month period. Admission to the plan will be at six (6) month intervals - March and September.

c) All attorneys in the Program will revert to their former status at the end of six (6) months. If an attorney transfers, promotes, demotes, terminates, or in any other way vacates or
reduces his/her present code, he/she will be removed from the VRWH Program for the balance of the six (6) month period.

d) Participation in this Program shall be by mutual agreement between the attorney and the appointing authority or his/her designee. Attorneys who wish to voluntarily reduce their work hours may submit a written request to the appointing authority or his/her designee within the designated window period. The appointing authority or his/her designee must issue a written response to the attorney within the designated window period but no more than five (5) working days after the close of the designated window period. If the request is being denied, the specific reason for denial will be included in the response. Copies of this shall be delivered by mail to the GAA President.

e) If the attorney is not satisfied with the decision, he/she may, within five (5) working days after receipt of the appointing authority or his/her designee response, submit a written request to the appointing authority or his/her designee for a meeting to make a verbal appeal.

f) It is agreed that the appointing authority or his/her designee will arrange a meeting with the attorney within five (5) days after the receipt of such a request. The appointing authority or his/her designee shall send a final decision in writing to the attorney within five (5) working days of such a meeting. Copies of this decision shall be provided to the GAA President.

g) Attorneys may use the reduced hours' time in advance of accrual and will reimburse the County for hours taken in advance of accrual upon early termination from the Program.

h) Participation in this Program shall be by mutual agreement between the worker and the department/agency head. Restrictions by the agency/department within work units shall be uniformly applied.

i) All attorneys will be notified in writing regarding the Program specifics and the sign-up options.

j) Full and timely disclosure of actual sign-ups and any analysis developed will be made available to both the County and the GAA.

k) This agreement governs as to the Voluntary Reduced Work Hours Program, but will in no way alter the meaning of the Union and County agreements currently in effect. This will include any departmental, master, unit, side-letter agreements, etc.

SECTION 25 – FULL AGREEMENT
It is understood this agreement represents a complete and final understanding on all negotiable issues between the County, its Departments, and the GAA. This Agreement supersedes all previous memorandum of understanding or memorandum of agreement between the County, its Departments, and the GAA except as specifically referred to in this Agreement. All ordinances or rules covering any practice or subject matter not specifically referred to in this Agreement shall not be superseded, modified, or repealed by implication or otherwise by the provisions hereof. The
Parties, for the term of this Agreement, voluntarily and unqualifiedly agree to waive the obligation to negotiate with respect to any practice, subject, or matter not specifically referred to or covered in this Agreement even though such practice, subject or matter may not have been within the knowledge of the Parties at the time this Agreement was negotiated and signed.

In the event any new practice, subject or matter that is related to wages, hours or conditions of employment arises during the term of this Agreement and an action is proposed by the County, the GAA shall be afforded all possible notice and shall have the right to meet and confer upon request. In the absence of agreement on such a proposed action, the County reserves the right to take necessary action by management direction.

**SECTION 26 – SAVINGS CLAUSE**
If any provision of this agreement should be held invalid by operation of law or by any court of competent jurisdiction, or if compliance with or enforcement of any provision should be restrained by any tribunal, the remainder of this Agreement shall not be affected thereby, and the parties shall enter into negotiations for the sole purpose of arriving at a mutually satisfactory replacement for such position.

However, if the State of California notifies the County of Santa Clara that legislation has been implemented which assesses monetary penalties to local governments which settle wages and/or benefits with increases in excess of certain limits (an example of such legislation is AB 1040, introduced in Spring 1991) the County has the option of not implementing or continuing to pay the benefits and/or wages. Both parties understand that the County may do so to avoid the above monetary penalties. The County may also seek repayment of the wages and/or benefits upon which the State is basing the monetary penalty.

If the County exercises any of these options, the Association may challenge such refusal to implement or pay benefits or such attempt to seek repayment. This Section does not eliminate or create rights or obligations not otherwise existing or denoted in this Agreement. But it does create as a first priority that the County not pay or suffer the monetary penalty contained in the potential above described legislation.

Thus, the Association may properly argue in Court that both parties to this agreement intend for the wage increase or benefit to be implemented, paid or maintained and that no penalty shall be incurred by the County consistent with such wages or benefits being paid.

If a court rejects an argument that the wages and/or benefits can be paid, while the County suffers no financial penalty, then the parties shall immediately enter into negotiations for the sole purpose of arriving at a mutually agreed alternative. In addition, at the option of the Association, the parties shall enter into the negotiations described herein without institution of or participation in the litigation described above. The parties shall negotiate for the replacement wages and/or benefits with the replacement wage and/or benefit to be effective when the original one(s) was/were to be effective.

It is understood that the purpose of this Section is to ensure that the County does not incur any liability or penalties on either the original agreement provisions, or the negotiated alternate provisions.
SECTION 27 – TERM
This Agreement covers the period December 7, 2015 up to and including August 23, 2020 and shall become effective only upon approval by the Board of Supervisors and upon ratification by the Association. This Agreement shall remain in full force and effect to and including August 23, 2020 and from year to year thereafter; provided, however, that either party may serve written notice on the other at least sixty (60) days prior to, August 23, 2020 or any subsequent August 23, of its desire to terminate this Agreement or amend any provision thereof.

Participation of Labor Relations and GAA
The following topics continue to involve both the Labor Relations Department and GAA participation in any agreements, including agreements as a result of meet and confer or settlements:

- Layoff (Impact)
- Discipline Settlement (except where the Association is not representing the Attorney)
- Grievance Settlement
- Extensions of Probationary Periods
- Any meet and confer that results in monetary modification (including adding new classifications to receive any differentials or premiums that require changes to the memorandum of agreement
- Any changes to the terms of the agreement

The above topics are not an all-inclusive list. Should there be a question regarding the above list or a topic not be outlined above, the parties agree to meet to discuss such issues in an effort to reach an understanding.
Side-Letter Agreement
between
County of Santa Clara
&
Government Attorneys Association

This side-letter constitutes a part of the agreement reached between the County of Santa Clara and the Government Attorneys Association for the 2011 - 2013 Memorandum of Agreement.

The County agrees that the terms of this side letter shall be in effect for the attorneys employed in the following classifications at the Office of the District Attorney:

Attorney I - District Attorney U25
Attorney I - District Attorney - U W35
Attorney II - District Attorney U24
Attorney II - District Attorney - U W34
Attorney III - District Attorney U21
Attorney III - District Attorney - U W33
Attorney IV - District Attorney U20
Attorney IV - District Attorney - U W32

Rotation from “trial” assignment to “non-trial” assignment:

Assignment rotations should balance the following:
1) the needs of the office,
2) development of attorneys,
3) equitable distribution of assignments,
4) competency in specialized areas of work,
5) interest in specialized areas of work, and
6) maximizing attorney effectiveness over an entire career.

Trial assignments include any assignment in which the attorney is obligated to prepare for and perform jury trials on a regular basis. Teams with trial assignments include, but are not limited, to:

BAT
Career Criminal
Central Misdemeanors
Family Violence
Forensic Mental Issues
Gangs
Homicide
Major Fraud
Narcotics
North and South County
RATTF
Sexual Assault
Members of these teams who are only responsible for issuing, handling calendars, and supervision are deemed to be in "non-trial" assignments. Members of other teams not listed above who prepare for and perform jury trials on a similar basis shall be deemed to be in a "trial" assignment for these purposes.

Attorneys who have been in trial assignments for the previous three or more years without 6 consecutive months in a non-trial position shall be moved, upon their request, to a non-trial assignment within 90 days, and for no less than 6 consecutive months. However, the Chief Assistant District Attorney may extend the length of time an attorney remains in his or her current trial assignment with a showing of the strong needs of the office. That showing shall be made in writing and shall be provided to the Attorney and the GAA President. This finding shall be reviewed every 90 days to determine if the needs of the office allow for a move to a non-trial assignment.

Attorneys requesting rotation from a trial assignment under this policy will meet with their Supervising Deputy District Attorney(s) and, as needed, their Assistant District Attorney, to implement a plan for how their caseloads will be transitioned. Attorneys may be required to keep certain cases upon reassignment if they cannot be re-assigned. If an attorney keeps such a trial case during rotation to a non-trial assignment, the time spent preparing for and performing the trial shall be taken into consideration when determining when an attorney should be rotated from the non-trial assignment.

Both management and the attorney will be reasonable in determining which cases the attorney is expected to retain after he or she is moved to a non-trial assignment. When requiring an attorney to keep a case, consideration shall be given to the ability of the office to re-assign the case, the complex nature of the case, and the amount of time the attorney has already spent preparing the case.

Regardless of the "trial" or "non-trial" nature of the assignment, attorneys who have served three consecutive years in the same assignment, shall, upon their request, be transferred to a new assignment within a reasonable period of time, given the needs of the office. No attorneys are to be returned to the same assignment they have held for 3 years consecutively without at least a two year break, and all efforts should be made to place other attorneys in that position instead (unless otherwise agreed to by the attorney).

In general, assignments should last less than 5 years. Certain assignments that require complex litigation, extensive training, and lengthy cases may require attorneys to serve more than 5 years in one assignment. Attorneys do not need to be moved simply because they have been in one assignment for 5 years. However an attorney, excluding supervisors, shall be moved after 5 years if another attorney with an appropriate skill set has requested to be moved to that assignment. This does not guarantee that any requesting attorney shall receive said assignment. If no one with the appropriate skill set has requested the assignment and the attorney currently working in that assignment wishes to keep doing so, then rotation is not necessary. However, based on the needs of the office, any attorney may be moved at any time, other than during their requested 6 month "non-trial" assignment.
Office Hours:
The office is open to the public from 8:00 a.m. to 5:00 p.m. Attorneys are expected to be reachable by their colleagues and supervisors during the hours the office is open to the public. Attorneys shall notify their supervisors when they will be away from the office during the hours the office is open to the public.

Dress Code:
Wearing appropriate work attire is an extension of expected professionalism and courtesy. Every attorney shall at all times be prepared to appear in court or engage members of the public or media.

Split Codes:
The County may provide access to split codes to all attorneys. Authorization of split codes is at the sole discretion of the appointing authority or his/her designee. The number, location and choice of these codes will be determined on a departmental basis. Requests for split codes shall not be unreasonably denied. Reasonable denial shall include, but not limited to, the work is not reasonably divisible, or qualified partners, if needed, are not available. Attorneys shall make a written request for a split code to the appointing authority or his/her designee. The request shall be reviewed by the appointing authority or his/her designee and the attorney shall receive a written response in 20 business days.

Date: 5/21/16

County of Santa Clara

Janice Lawton
Sandra Poole
Joe Guzman
Donald Larkin
Lori McKeown

Government Attorneys Association

Max Zarzana
Kipp Davis
Tom Saggau
Kevin Smith

Brian Welch
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