

**SIDELETTER OF AGREEMENT
BETWEEN
THE COUNTY OF ALAMEDA
AND
ALAMEDA COUNTY WELFARE FRAUD INVESTIGATORS ASSOCIATION**

**MEMORANDUM OF UNDERSTANDING
September 16, 2019 – September 16, 2023**

The County of Alameda (“County”) and the Alameda County Welfare Fraud Investigators Association (“ACWFIA”) [collectively known as ‘the Parties’] have met and conferred and reached agreement on this Sideletter of Agreement (“SLA”) to the Memorandum of Understanding (“MOU”) regarding due process (just cause) and related topics that apply exclusively to persons employed in the Office of the District Attorney and occupy positions in classifications represented by ACWFIA. The provisions contained in this SLA are contingent upon ACWFIA withdrawing the Unfair Practice Charge filed with the Public Employment Relations Board (Case No. SF-CE-1908-M). This SLA is intended to memorialize the agreement reached between the Parties and concludes the meet and confer (MC-20-296) in its entirety. Moreover, this SLA is not intended to supersede any terms and conditions of employment contained in the MOU other than those specifically identified herein.

SECTION 1. PROBATIONARY PERIOD

- 1.A. DEFINED.** The probationary period shall be regarded as an integral part of the hiring process. It shall be utilized for the effective adjustment of the probationer, for close observation of the probationer’s performance, and for termination, if such performance does not meet the work standards for the classification or if the probationer’s conduct, moral responsibility, or integrity is found to be unsatisfactory.
- 1.B. APPOINTMENTS SUBJECT TO PROBATIONARY PERIOD.** The following types of appointments are subject to satisfactory completion of a probationary period:
- Regular and promotional appointments; Services-as-Needed; reinstatement appointments following resignations; and transfer or voluntary demotion appointments of probationers.
- 1.C. EXCLUSION OF LIMITED TERM APPOINTMENTS.** Time served in a temporary, provisional, or emergency appointment shall not be credited toward the completion of any period of probation and shall not confer upon the appointees any tenure rights.
- 1.D. WHEN PROBATIONARY PERIOD NOT REQUIRED.** A new probationary period is not required for the following types of appointments:
- Voluntary demotion appointments of employees with tenure in a classification covered by this MOU from which they are taking a demotion, and reappointment to a lower classification for which they hold tenure after rejection during the probationary period of a higher classification in the same department.
- 1.E. LENGTH.** Original and promotional appointments shall be tentative and subject to a probationary period of 12-months (and a minimum of 2,080 hours) of actual work, exclusive of all leave and light duty and shall be completed within a 24-month period.
- 1.F. PROBATIONARY PERIOD AND MILITARY LEAVE.** Probationary employees who are granted military leaves of absence shall complete the balance of their probationary period within a period of 12-months following their return to County service. No provision of this subsection shall be

interpreted to preclude the County from establishing a new classification which may require a probationary period of more than 12-months.

- 1.G. EXCLUSION.** Employees hired or rehired on or before 12-months prior to the adoption of the MOU by the Board of Supervisors, shall be subject to the requirements of the Probationary Period until such time as the employees have worked the length of time as provided in subsection 1.E. (Length) for their classification.
- 1.H. STATUS UPON COMPLETION OF PROBATIONARY PERIOD.** An employee who satisfactorily completes the period of probation for the classification to which the employee was regularly appointed, shall be considered to have tenure in the Office of the District Attorney.
- 1.I. REJECTION.** During the probationary period, an employee may be rejected at any time without right of appeal or hearing in any manner. An employee rejected from a classification to which the employee has been promoted shall be reinstated to the position from which the employee was promoted and had tenured, unless charges are filed and the employee is terminated as provided in Section 2. (Discipline Procedure).

SECTION 2. DISCIPLINE PROCEDURE

Eligible employees covered by this MOU shall be afforded the procedure established hereunder in the Discipline Procedure for disciplinary action(s) involving suspension, demotion, or termination of employment.

- 2.A. GENERAL PROVISION AND ELIGIBILITY.** The tenure of every employee covered by this MOU shall be during good behavior and rendering of efficient service. Employees who successfully completed their probationary period as outlined in Section 1. (Probationary Period) and achieved tenure in the classification(s) covered by this MOU may be suspended, demoted, or terminated for just cause as provided below.
- 2.B. SUSPENSION OF MANAGEMENT EMPLOYEES.** Employees exempt from the overtime provisions of the Fair Labor Standards Act may be suspended without pay due to the imposition of discipline, in increments of one (1) or more full days.
- 2.C. CAUSES.** Each of the following may constitute a cause or reason for disciplinary action, but such action shall not be restricted to the particular causes listed:
 - a) Fraud in securing the appointment.
 - b) Unfitness for the position.
 - c) Inefficiency.
 - d) Neglect of duty.
 - e) Drunkenness on the job.
 - f) Addiction to the use of narcotics or habit-forming drugs.
 - g) Willful disobedience.
 - h) Insubordination.
 - i) Inexcusable absence without leave.
 - j) Discourteous treatment of the general public or fellow employees.
 - k) Forbidden political activity.
 - l) Willful misuse of public property.
 - m) Immorality.
 - n) Dishonesty.
 - o) Conviction of a felony.
 - p) Any failure of good behavior or acts either during or outside of office hours which are incompatible with or inimical to the public service.

- q) Engaging in business or accepting outside employment, while an employee of Alameda County, which gives rise to a conflict of interest.

2.D. REPRESENTATION. Any employee facing formal disciplinary action shall have the right to be represented by ACWFIA.

2.E. WRITTEN NOTICE OF INTENT. A written Notice of Intent (“NOI”), stating the reason(s) for the proposed disciplinary action, shall be provided to any employee subject to suspension, demotion, or termination of employment. The NOI shall inform the employee of the right to deny the allegation(s) by providing a written or oral response to the District Attorney within ten (10) working days from the date of service of the NOI to the employee.

2.F. WRITTEN DECISION. The District Attorney shall consider the written or oral response to the allegations in the NOI, if submitted, and issue a decision.

The decision of the District Attorney shall be final unless appealed as provided in subsection 2.G. (Appeal) below.

2.G. APPEAL. The employee suspended, demoted, or terminated, may, within ten (10) working days after receipt of the decision pursuant to subsection 2.F. (Written Decision), appeal said Written Decision to an impartial hearing officer as provided in subsection 2.H. (Impartial Hearing) by notifying the District Attorney in writing, with a copy to the County of Alameda, Human Resource Services Director.

2.H. IMPARTIAL HEARING. Unless the Parties otherwise agree, the appeal shall consist of a proceeding conducted by an Administrative Law Judge (“ALJ”) with the California Department of General Services, Office of Administrative Hearings (“OAH”). The County and the employee or the employee’s representative retain the right to one (1) peremptory challenge of the assigned ALJ.

The ALJ may hear testimony, receive closing briefs post-hearing, and shall render a decision to the Parties which will end the formal disciplinary appeal process. ALJ decisions on matters properly before them which pertain to disciplinary actions involving the suspension, demotion, or termination of employment of an employee shall be final and binding on both Parties.

The OAH fees and related expenses shall be shared equally by the employee (or the employee’s representative) and the County. Each party, however, shall bear the cost of its own presentations including preparation and post-hearing briefs, if any.

SECTION 3. INDEMNIFICATION AND DEFENSE

The ACWFIA will defend, indemnify, and hold harmless the County, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including reasonable attorneys’ fees actually and necessarily incurred, arising out of any claim or cause of action brought or filed during the term of this MOU to the extent said claim or cause of action seeks to void Section 2. (Discipline Procedure), or any part thereof, so long as Section 2. (Discipline Procedure) remains in effect. The ACWFIA’s responsibility under this provision shall extend only to claims or causes of action seeking to void Section 2. (Discipline Procedure).

SECTION 4. REDUCTION IN FORCE AND LAYOFF

4.A. JURISDICTION OF DISTRICT ATTORNEY. Whenever it becomes necessary to reduce the number of employees of the Office of the District Attorney, the District Attorney shall determine the classifications to be affected by the reduction, the number of positions by which each classification

shall be reduced, and the date the reduction is to take effect, and provide notice to the Board of Supervisors of such need. When specific positions within a classification require special skills, knowledge, or abilities, the District Attorney, with prior concurrence of the Director of Human Resource Services, may designate specialties within a classification and treat such approved specialty as a separate classification for purposes of layoff and demotion in lieu of layoff.

4.B. ORDER OF LAYOFF. When a reduction in force becomes necessary, layoff and demotions in lieu of layoff shall be accomplished in inverse order of total paid service in the classification(s) covered by this MOU. For the purpose of this subsection 4.B. (Order of Layoff), total paid service shall include unpaid leaves of absence taken by the employee pursuant to Voluntary or Mandatory Time Off Programs adopted by the Board of Supervisors in Fiscal Year 1992-93 and 1993-94.

1. Employees working as retired annuitants, provisional, temporary, or probationary who work in a classification identified for layoff must be terminated prior to the layoff of a tenured employee.

4.C. DEMOTION IN LIEU OF LAYOFF. An employee in a classification affected by a reduction in force may, in lieu of layoff, elect to demote to a lower paying classification provided that such employee had held tenure in the lower paying classification. When both the employee demoting and the employee in the lower paying classification have equal total County service, the employee in the lower paying classification would be laid off or demoted first. Reduction in force or demotion in lieu of layoff in the Office of the District Attorney shall not affect employees in any other County agency/department.

4.D. NOTICE. The District Attorney shall give the ACWFIA written notice and seniority list of the classification affected by a reduction in force at least thirty (30) calendar days before layoffs. Upon request, the District Attorney shall meet with the ACWFIA to review and discuss the seniority list.

1. An employee may be laid off thirty (30) calendar days after formal, written notice has been presented or mailed to the employee's last known mailing/home address.

TENTATIVE AGREEMENT

For the County:

DocuSigned by:
 3/25/2022

5E8F626044F840D...
Jeff Bailey Date

IEDA Negotiator

DocuSigned by:
 3/25/2022

24C03D6E072A48D...
Margarita Zamora Date
Labor Relations Manager

For ACWFIA:

 3/25/22

David Tuttle Date
Public Sector Business Agent