

**MEMORANDUM OF UNDERSTANDING  
GENERAL BARGAINING UNIT**

**Between**

**SAN JOAQUIN VALLEY  
UNIFIED AIR POLLUTION CONTROL DISTRICT**

**And**

**SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION  
CONTROL DISTRICT EMPLOYEES' ASSOCIATION**

**Effective July 1, 2021 – June 30, 2024**

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## ARTICLE 1 – Introduction/Purpose

We the Undersigned, duly authorized representatives of the San Joaquin Unified Air Pollution Control District, hereinafter referred to as "District" and San Joaquin Valley Air Pollution Control District Employees' Association, hereinafter referred to as "Association", having met and conferred in good faith, do hereby jointly prepare and execute the following written Memorandum of Understanding (MOU) for Representation General Bargaining Unit. The purpose of the MOU includes promotion and provision for harmonious relations, cooperation and understanding between management and the employees covered herein and to provide an orderly and equitable means of resolving any misunderstandings or differences, which may arise under this MOU.

## ARTICLE 2 – Recognition

Pursuant to the provisions of the District's Employee Relations Policy and applicable State Law, the District hereby recognizes the Association as the exclusive representative of all regular and part-time employees whose classifications have been certified for inclusion in the Unit covered by this MOU, as well as such classifications as may be added to such Unit hereafter in accordance with the District's Employee Relations Policy.

## ARTICLE 3 – Full Understanding

It is intended that this Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other previous understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded, or terminated in their entirety.

This Memorandum of Understanding shall govern in case of conflict with provisions of existing District ordinances, rules, and regulations pertaining to wages, hours, and other terms and conditions of employment but otherwise such ordinances, rules, and regulations shall be effective and the Governing Board and other District boards and commissions retain the power to legislate pertaining to such matters subject to compliance with the Meyers-Millias-Brown Act (as referenced in California Government Code, Sections 3500 and 3511) and other applicable provisions of law provided such actions are not in conflict with the provisions of this Memorandum of Understanding.

## ARTICLE 4 – Health Benefits

The District shall contribute a maximum amount of \$830 per month, per employee which shall be used to purchase at least the minimum level of required health coverage. Required coverage includes employee only medical, dental, vision, and life insurance. Employee participation in required benefits shall be mandatory.

Employees may choose to participate in optional benefit programs using any remaining amount after the required coverage has been purchased. Employees who choose to purchase optional benefits shall do so at their own expense. In no event shall the total amount contributed by the District exceed the amounts as noted above. Optional benefit programs include medical, dental, and vision coverage for dependents; enhanced life insurance; and enhanced long-term disability insurance. Remaining funds after purchasing required and optional benefits shall be returned to the employee.

It is agreed and understood by the parties, that due to the number of employees within the District, the same level of benefit coverage and carrier(s) shall be available to all District employees.

The District and the Association agree to form a Health Insurance Committee to discuss plan design, options and carriers for health and long term disability insurance and the District sponsored deferred compensation plan. The charge of the Committee shall not include a discussion of District contributions. The Committee shall be made up of three management representatives and three Association representatives.

#### ARTICLE 5 – IRS 125 (Premium Only)

The District shall provide employees with the option of enrolling in an IRS 125 (Premium Only) Plan at no cost to the employee.

#### ARTICLE 6 – Wages

Effective July 3, 2021, each step of all the salary ranges assigned to the classifications covered by this agreement will increase by 3.0 percent.

Effective July 2, 2022, each step of all the salary ranges assigned to the classifications covered by this agreement will increase by 2.5 percent.

Effective July 1, 2023, each step of all the salary ranges assigned to the classifications covered by this agreement will increase by 2.5 percent.

Any employee's salary that has been "Y"-rated, shall remain until such time as the top step of his/her salary range surpasses the employee's actual salary.

These changes will not affect an employee's status or anniversary date for possible merit increases or salary placement upon promotion.

## ARTICLE 7 – Salary on Promotion, Demotion or Transfer

Employees will normally be placed at the first step of the salary range of the new class on promotion; however, the employee shall be appointed at a higher step in the new range if required in order to give the employee a 5% salary increase. When the employee is being promoted and is also due for a merit increase, the employee should be eligible for both the promotion raise and the merit increase, as long as the merit increase occurs within 90 days of the promotion, and the promotion results in an increase of 10% or less.

## ARTICLE 8 – Savings Clause

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

## ARTICLE 9 – Continuity of Operations

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

In the event the District determines there to be a violation of this article by the Association and/or employees which it represents, the District may, in addition to other remedies, discipline such employees up to and including termination, subject to the Personnel Policies and Procedures.

## ARTICLE 10 – Alternate Transportation Incentives

As a means of encouraging employees to use alternate methods of transportation for commuting to and from work, the District will provide the following incentives to employees:

- Free priority parking for employee carpool vehicles in Fresno (two or more passengers) on a first come, first serve basis.
- The availability of lockable bike racks for the Central Region Office.
- In case of emergency, the District will provide a free ride home for any employee who has carpooled or commuted by way of an alternate mode of transportation.
- A monetary incentive of \$50.00 per pay period will be paid to each employee who participated in an alternative commute program 60% of the pay period (which means 6 out of 10 days).
- When a 9/80 work schedule is in effect, employees who utilize an alternate method of transportation 5 out of the 9 days will be eligible to receive the monetary incentive.

## ARTICLE 11 – Term of Agreement

The District and the Association agree that the term of this Agreement shall be in effect from July 1, 2021, until midnight June 30, 2024. In the event either party hereto desires to meet and confer on provisions of a successor Memorandum of Understanding, such party shall serve upon the other its written request to meet and confer as well as its written proposals for such successor Memorandum of Understanding.

## ARTICLE 12 – Compressed Work Week

The following has been utilized to implement a 9/80 work schedule and supersedes the corresponding provisions of the District's Administrative Code.

If District Management at its sole discretion concludes that the 9/80 work schedule is not conducive to District operations, the District will meet and confer on the impact of discontinuing the program. Thirty days notice will be provided to employees prior to the termination of a 9/80 schedule. Provided District Management has concluded that operations have not been adversely affected the program will continue until such time another work schedule is implemented.

## **WORK PERIOD**

A work period shall consist of two (2) consecutive work weeks for a total of fourteen (14) calendar days. The first work week shall commence on Friday at 12:00:01 P.M. and shall end on Friday at 12:00 Noon. The second work week shall commence on Friday at 12:00:01 P.M. and shall end on the following Friday at 12:00 Noon. The Executive Director/APCO may designate a different two (2) week work period when it is determined to be in the best interest of the District and remains consistent with the provisions of the Fair Labor Standards Act.

## **WORK HOURS**

Work hours are those hours an employee is assigned to perform duties on behalf of the District. With a 9/80 work schedule, an employee will normally work Monday through Thursday, 7:30 a.m. to 5:30 p.m., and the first Friday of the pay period from 8:00 a.m. to 5:00 p.m., with a one hour lunch period and the second Friday of the pay period off, unless otherwise approved by the Executive Director/ APCO. Employees may select a work schedule between 6:00 a.m. and 7:00 p.m. and a lunch period of ½ hour or one hour based on operational needs and approval of the Executive Director/APCO or his designee. An employee shall not work hours that are not authorized in advance, except in a bona fide emergency situation.

The following **are** considered hours worked:

- Paid holidays
- Time during which an employee is required to be on District premises or at a prescribed work location
- Preparatory work which is part of the principal activity at the work location.
- Meal periods, as approved by the Executive Director/APCO, when a unique condition exists which requires an employee to be available for or actually perform duties at a work location
- One 15 minute break per four hours of work - this is interpreted as 2 rest periods per 8 or 9 hour workday
- Traveling between work locations or traveling out of the District during work hours
- The time necessary to change clothes and wash-up at the work location if required as a result of assigned job duties or if required by the District



The following **are not** considered hours worked:

- Annual leave, compensatory time off, administrative time off, administrative leave, jury duty/witness leave or military leave
- On-call time
- Overnight trips during non-work hours unless otherwise approved
- Time spent before, after or during regular work hours which an employee is not required to perform duties on behalf of the District
- Commuting time between home and job
- Professional development training not required by the District

### **ADJUSTED WORK SCHEDULES**

Effective July 3, 2021, employees may adjust or “flex” their daily work schedules periodically throughout the year to accommodate specific needs for time off work such as personal appointments, which would otherwise require the use of annual leave. The District will consider employee requests and will allow adjusted work schedules within the same work week subject to the following conditions:

- Employees must submit a request for an adjusted work schedule at least one (1) calendar day in advance.
- Requested adjusted schedules are between the hours of 6:00 a.m. and 7:00 p.m. on regular Monday thru Thursday work days and 7:00 a.m. and 7:00 p.m. on working Fridays.
- Employees must still take the required 1-hour or 30-minute lunch break and break times or rest periods cannot be added to the lunch period for an extended lunch.
- If the adjusted work schedule results in an employee working in excess of nine (9) hours on a nine (9) hour day or eight (8) hours on an eight (8) hour day, the employee waives daily overtime provisions, except for the case when authorized hours actually worked on the day, excluding the hours covered by the adjusted work schedule, exceed nine (9) hours on a nine (9) hour day or eight (8) hours on an eight (8) hour day.
- On working Fridays, the adjusted schedule does not result in an employee working in excess of forty (40) hours in the work week.

- The adjusted work schedule does not interfere with the District's business needs. Defining the District's business needs remains at the sole discretion of the District Management.

## **OVERTIME**

Overtime consists of authorized hours actually worked or time spent on jury duty leave during normal work hours in excess of forty (40) hours in a work week or nine (9) hours in a nine (9) hour day or eight (8) hours in a eight (8) hour day by an employee in a class not exempt from the Fair Labor Standards Act. All other hours not actually worked but paid for, such as annual leave, compensatory time off, jury duty/witness leave or military leave shall not count toward hours actually worked when determining overtime status. Overtime shall be compensated at one and one half times the employee's regular rate of pay.

## **HOLIDAYS AND ADDITIONAL TIME OFF**

The District shall observe the following Holidays:

- (1) New Year's Day
- (2) The third Monday in January (Martin Luther King Jr.'s Birthday)
- (3) The third Monday in February (President's Day)
- (4) The last Monday in May (Memorial Day)
- (5) Independence Day
- (6) Labor Day
- (7) Veteran's Day
- (8) Thanksgiving Day
- (9) Day after Thanksgiving Day
- (10) Christmas Day

An employee in a regular position shall be paid at the regular rate of pay for holidays, provided the employee is in a paid status the day before and day after the holiday.

When a holiday falls on a regularly scheduled Friday off (the second Friday of a pay period), an employee will receive eight (8) hours of regular pay in addition to the hours worked and other paid leave time paid during the pay period.

When a holiday falls on a Saturday, it will be observed the Friday before the holiday.

When a holiday falls on a Sunday, it will be observed the Monday after the holiday.

All regular employees employed with the District shall also receive one work day of floating holiday time. In the first year of employment, employees hired between July 1 and November 30 will receive four and one half (4.5) hours of floating holiday time. Floating Holiday time is not cumulative, may be taken in any increment, must be used during the calendar year in which the time is provided, must be scheduled in advance, and approved by the immediate supervisor. When employment with the District is terminated, employees will not be compensated for any unused Floating Holiday time.

Employees will be granted to take either Christmas Eve or New Year's Eve off with pay when these days fall on a regular work day. The assigned day off will be granted based on operational needs and receipt of request on a first come first serve basis.

When Christmas Eve or New Year's Eve fall on a weekend, a holiday, or a scheduled Friday off, the day off will be the workday prior to the observed weekend, holiday, or scheduled Friday off. In the event an employee is denied both days off due to operational needs the employee shall be provided a floating holiday to be granted utilizing the leave approval process.

All regular employees employed with the District shall also receive one work day of holiday time for their birthday. In the first year of employment, employees hired between July 1 and November 30 will receive four and one half (4.5) hours of birthday holiday time. Birthday Holiday time is not cumulative, may be taken in any increment, must be used during the calendar year in which the time is provided, must be scheduled in advance, and must be approved utilizing the leave approval process. When employment with the District is terminated, employees will not be compensated for any unused Birthday Holiday time.

### **JURY DUTY/WITNESS LEAVE**

An employee shall be entitled to receive regular pay when summoned to serve on jury duty, subpoenaed to appear in court as a witness, other than as a litigant or interested party, and when traveling to or from the employee's regular place of employment and the court or designated hearing place.

An employee will not be compensated for any time spent as a juror, witness, or traveling as a result of such service, which extends beyond an employee's work week (forty (40) hours).

Employees are to report to work during regular hours preceding and immediately following court appearances unless prior authorization has been obtained from their supervisor or when court commences at or before 9:00 a.m. or concludes at or after 4:00 p.m.

Reimbursements for mileage, parking, meals, or lodging may be retained by the employee. Any and all other fees must be signed over to the District.

### **BEREAVEMENT LEAVE**

An employee is entitled three (3) full days, computed hourly, paid hours per bereavement for personal time, to arrange for or to attend a funeral for his/her father, mother, stepfather, stepmother, sister, brother, stepsister, stepbrother, spouse, registered domestic partner, child, stepchild, grandmother, grandfather, great grandmother, great grandfather, grandchild, great grandchild, legally recognized foster relationships, and the corresponding relations by marriage.

## ARTICLE 13 – Part-Time Employment

Where approved by District management, regular employees may request to work a schedule that is less than full-time (80 hours per pay period) while retaining their regular status and receiving 50 percent of their regular employment benefits. For definition purposes, a regular employee working or in a paid status for no less than 40 hours and no more than 79 hours a pay period shall be considered as part-time. In no case shall a regular part-time employee work or be in a paid status less than 40 hours in a pay period.

The determination of which employees are eligible to work less than full time will be determined by the Division Director based on workload, operational needs, and employee job performance.

For part-time employees, the District will provide 50% of the cafeteria health contribution provided for full-time employees. Part-time employees will have the option to participate in the District sponsored health benefits program or to opt out of coverage with proof of comparable health coverage, as determined by the District. If a part-time employee chooses to participate in the District's health plan, the employee will be responsible to pay all additional amounts for the selected coverage. If a part-time employee chooses not to participate in the District's health plan, they must provide proof of comparable coverage from an alternate provider. A part-time employee opting out of the District's health plan may only opt back into the District's health plan with a qualified life change.

Other specific work hours, benefits, return to full-time policies, and related parameters will be established on a case by case basis and will be identified in writing for each employee requesting a part-time schedule.

It is understood that management has sole authority over granting, restricting, managing, and terminating any part-time employee schedules. Termination of a part-time schedule by any party, for any reason, does not guarantee the return of the employee to a regular full-time position.

## ARTICLE 14 – Retirement Benefits

The District shall provide retirement benefits under the County Employees Retirement Law of 1937 ("the '37 Act") as administered by Kern County Employees' Retirement Association (KCERA) and as implemented by options approved by the District, as follows:

- A. The following shall be applicable to District employees hired on or before July 30, 2012 ("Tier I"):
  - 1) A defined benefit pension as provided for by Government Code section 31500 *et. seq.*, with a retirement benefit formula of "3% at 60", as adopted by Kern County pursuant to Government Code section 31676.17, effective January 1, 2005, with

the option to include District service credit earned prior to January 1, 2005. District agrees that District service credit earned during District employment from January 1, 1992, to January 1, 2005, shall be subject to the "3% at 60" formula for Tier I members who retire on or after January 1, 2005.

- 2) For Tier I members, the employee rate shall be set at 50 percent of the normal cost rate based on age on entry, as determined by KCERA.

B. The following shall be applicable to District employees hired on or after July 31, 2012 ("Tier II"):

- 1) A defined benefit pension as provided for by Government Code section 31500 et. seq. with a retirement benefit formula of 1.62% at 65 pursuant to Government Code section 31676.01.
- 2) A defined contribution 457 plan, as part of the existing District Deferred Compensation Plan, wherein the District will provide a biweekly amount (hereafter "match") not to exceed six percent (6%) of base salary.
  - a) Subject to the limitation contained in subsection (b) below, the District shall contribute a biweekly amount, equal to the biweekly amount that the employee contributes, to the District's Deferred Compensation Plan.
  - b) The six percent (6%) maximum biweekly match shall be calculated by multiplying the employee's hourly rate times the amount of hours the employee is paid for during the pay period including hours worked and paid time off but excluding overtime. Notwithstanding the foregoing, in no event shall the District pay the match, or any portion thereof, if the payment of the match, or portion thereof, will cause the employee to exceed any applicable IRS limitations of contributions to the District's Deferred Compensation Plan.
  - c) This MOU does not create a vested right to a continued match beyond expiration of the MOU unless otherwise required by law.
- 3) For District employees hired on or after July 31, 2012, but before January 1, 2013, the employee rate shall be set at 50 percent of the normal cost rate based on age of entry, as calculated by KCERA.
- 4) For District employees who first become members of KCERA on or after January 1, 2013, the employee rate shall continue to be set at 50 percent of the normal cost rate as calculated by KCERA, pursuant to the California Public Employees' Pension Reform Act of 2013.

C. The District shall pay 100% of all employer portions of retirement contributions, as determined by KCERA.

## ARTICLE 15 – Labor Management Committee

The District and the Association agree to form a Labor Management Committee to meet at least quarterly to discuss labor-management issues and ideas. The intent in forming the Committee is to create a forum for the informal discussion of issues, the free exchange of ideas and suggestions, and the cooperative resolution of issues in a timely manner. The charge of the Committee does not include negotiation of matters covered in the Memorandum of Understanding. The Committee shall be made up of up to three management representatives and three Association representatives.

## ARTICLE 16 – Donation of Leave Time

A voluntary donation of annual leave from one employee to another may be permitted for the purpose of providing a regular employee with paid leave time for the care of him/herself, or an immediate family member, who is suffering from a catastrophic illness or injury or is disabled due to pregnancy, as determined by a physician or other qualified health care provider. Employees may donate annual leave time to other employees when all of the following conditions have been met:

1. The employee who is, or whose immediate family member is, suffering from a catastrophic illness or the employee is disabled due to pregnancy provides documentation of such injury or illness as verified by a qualified health care provider.
2. The employee receiving donated annual leave has exhausted, or soon will exhaust, all accrued leave such as annual leave, comp time, sick leave, holiday leave, administrative time off, etc.
3. The employee receiving the donation is not receiving Workers' Compensation or Disability Insurance payments.
4. Donations of time shall be made in minimum increments of four (4) whole hour blocks of time.
5. To retain sufficient annual leave to meet their own needs, annual leave donors must not reduce their accumulated annual leave balance to fewer than eighty hours.
6. Approval is obtained by the Executive Director, or his/her designee, ensuring that these conditions have been met prior to the transfer of time from one employee to another.

Nothing in this section shall be construed to require donations of time from one employee to another. To emphasize the voluntary nature of the donation, the names of the donors will not be made available to the recipient.

A. Process

Employees who wish to donate annual leave time must provide written authorization to the Director of Personnel for the transfer of time. The written authorization must state the date, donating employee's name, the number of hours to be donated, and the name of the receiving employee.

The Personnel Office will obtain approval from the Executive Director, or designee, verifying that each donor has sufficient leave to cover the donation and that the recipient meets the requirements for receipt of donated leave.

If approved, the Finance Department will log the donations in the order they were received. Once the recipient has exhausted all paid leave, donations will be processed on a pay period by pay period basis in the order listed on the donation log. This process will continue until such time as the recipient's status changes and they are no longer eligible for donations, until no donations are available, or until the recipient has received the equivalent of 12 months of paid leave during their tenure with the District, which ever occurs first.

When the need is resolved or the process is concluded, any remaining unused donations will not be processed and the donation form will be returned to the donor.

Donations shall be made and used on an hour for hour basis.

B. Definitions

1. For purposes of this section, "immediate family" shall include the husband, wife, father/step, mother/step, brother/step, sister/step, child/step, legally registered domestic partners, and legal dependents of the employee receiving the transfer of time.
2. For purposes of this section, "catastrophic illness or injury" shall mean an illness or injury that is monumental, unusual, unexpected, immediate in nature, life threatening or debilitating and which is expected to

incapacitate the employee for at least thirty (30) days, or that incapacitates a member of the employee's immediate family requiring the employee to take time off from work for at least thirty (30) days to care for that family member.

## ARTICLE 17 – Bilingual Pay

The District recognizes that certain employees having bilingual skills are called upon from time to time to perform translation duties. It is further recognized that certain of these employees may be called away from their normal duties to perform translation services. To recognize the specialized services provided by these employees, the District will designate a pool of employees District-wide who will provide translation services when called upon to do so. These employees may be located at any of the three District offices. Selection of employees is at the discretion of management with consideration given to classification, program assignment, regional office assignment, and operational needs. While the number of employees designated to provide bilingual services is at management's discretion, the number will not exceed twelve (12) District-wide. Effective July 3, 2021, employees designated to provide translation services will receive \$30.60 per pay period whether or not they actually provided such services during that pay period. No employee will be approved for Bilingual Pay until the employee has demonstrated competency in the designated language to the satisfaction of the District.

## ARTICLE 18 – Deferred Compensation

### **PERFORMANCE & LONGEVITY**

For employees reaching 20 years of continuous service, the District shall contribute to the District's deferred compensation plan on a biweekly basis for an amount equal to 2% of the employee's regular base salary if the employee's last annual performance evaluation has an overall "meets standards" rating, or 4% of the employee's regular base salary if the employee's last annual performance evaluation has an overall "meets standards" rating with "exceeds standards" rating in the following three areas: Quality of Work; Cooperation/Teamwork/Attitude; and Judgment. The regular base salary is calculated by multiplying the employee's hourly rate times the amount of hours the employee is paid during the pay period, including hours worked and paid time off but excluding overtime and on call.

Time spent in an unpaid status shall not be credited towards the years of service requirement. Regular part time employees shall be credited at a rate of 50% of their regular base salary.

The deferred compensation for performance and longevity pay shall discontinue upon an employee receiving a performance evaluation which does not meet the performance



criteria established above until such time as the employee receives a performance evaluation meeting the above requirements.

For employees reaching 20 years of continuous service and meeting the performance criteria specified above, the commencement of deferred compensation for performance and longevity pay shall go into effect on the first day of the pay period following the date the employee reached 20 years of continuous service. Subsequently, changes to deferred compensation for performance and longevity pay shall go into effect on the first day of the pay period following the evaluation due date.

Deferred compensation for performance and longevity is contingent upon an employee meeting the performance criteria specified above and shall not constitute a vested right to benefits or compensation.

The District's determination that an employee does not meet the performance eligibility criteria for receiving the deferred compensation for performance and longevity pay shall not constitute a disciplinary action and is not subject to appeal procedures for disciplinary actions specified in this MOU or the District's Administrative Code.

#### **MITIGATION OF ALAMEDA DECISION IMPACTS**

Effective as soon as possible, but in no event later than August 14, 2021, barring unforeseen circumstances outside the control of the District, for full-time regular employees hired prior to January 1, 2013, and who have reached 20 years of continuous service, the District shall contribute to the District's deferred compensation plan a biweekly amount, equal to the biweekly amount that the employee contributes, not to exceed 2.5% of base salary. This provision shall expire 5 years after the effective date.

#### **ARTICLE 19 – On-Call Pay**

An employee assigned on-call duty shall receive prior notification of the dates and inclusive hours of the assignment. Effective July 3, 2021, the employee shall be compensated at the rate of six dollars (\$6.12) per hour of on-call duty. On-call duty requires the employee so assigned to (1) be ready to respond to calls, (2) be reachable by telephone or pager, (3) be able to be at the work station within 45 minutes, and (4) refrain from activities which might impair his/her ability to perform assigned duties. An employee shall not receive on-call pay and call-back pay simultaneously. Compliance senior and compliance supervising inspectors shall be allowed to volunteer.

This section shall not apply to exempt employees.

## ARTICLE 20 – Professional Development

Employees who work towards an advanced degree pertinent to District operations shall be reimbursed by the District for tuition and class registration fees, up to a maximum of \$1,000 per year. The District agrees to reimburse the employee after successful completion of the class, if the class subject matter was deemed acceptable to the District. The total amount allocated to this shall not exceed \$25,000 per year. In addition, reimbursement for skill enhancements in the amount of \$1,000 per person up to \$25,000 per year will be awarded. Skill enhancement shall include, but is not limited to, participation in job-related conferences, seminars, and courses.

## ARTICLE 21 – Disciplinary Actions

With just cause, the appointing authority will take disciplinary action against any regular status employee in accordance with Administrative Code Section 15.5. "Disciplinary Action" shall include, but not be limited to, counseling, letter of understanding, written reprimand, reassignment, suspension, demotion, or termination.

### **Cause for Disciplinary Action:**

Causes for disciplinary action shall include, but not be limited to:

1. Falsifying personnel records or District records or providing false information concerning employment qualifications.
2. Incompetency.
3. Inefficiency.
4. Dishonesty.
5. Failure to meet the automobile insurability requirement of the District.
6. Failure to follow District safety rules.
7. Inexcusable neglect of duty.
8. Willfully disobeying a reasonable order or refusal to perform job duties assigned.
9. In possession of or under the influence of or trafficking in habit-forming drugs or narcotics while at work or on District property.
10. In possession of or under influence of alcoholic beverages while at work or on District property.

11. Inability to exercise self-control or self-restraint.
12. Unauthorized absence without leave.
13. Conviction of a felony or misdemeanor related to the performance of duties of the job. A plea of guilty or nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
14. Indecent conduct which has an adverse effect on the District image.
15. Discourteous treatment of the public and/or other employees.
16. Improper political activity as defined in the Government Code or District regulations.
17. Misuse of District property or damage to public or private property resulting from misuse or negligence.
18. Violation of Administrative Code Provisions.
19. Abuse or misuse or excessive use of leave or other employee benefits.
20. Gambling on District premises.
21. Failure to properly report absenteeism.
22. Excessive tardiness.
23. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
24. Other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the District.
25. Intimidation, coercion, harassment or other unwelcome, offensive, or threatening behavior.

It is the policy of the District to administer a progressive discipline approach in situations where employee performance or behavior is determined to be below the expectations desired or outside the normal expectations of the work environment.

Employees are responsible for following the rules of the District and for performing their assigned job duties. The immediate supervisor is primarily responsible for an employee's performance evaluation and for recommending disciplinary action.

It is the policy of the District to administer appropriate discipline, up to and including termination in situations where an employee's performance or behavior is determined to be below the expectations desired or inappropriate for the work environment.

The District reserves the right to determine the form of discipline to be imposed based on the severity, frequency, and repetitiveness of the cause of action. The following are examples of the different forms of discipline which may be imposed.

**Typical Sequence of Disciplinary Actions:**

1. **Counseling** - An informal discussion with an employee designed to assist the employee develop the required knowledge and skills or to clarify and remedy unacceptable performance or behavior. The discussion may clarify standards, evaluate the employee's performance and behavior, seek information or resolve concerns.
2. **Letter of Understanding** - A written document issued to an employee which clarifies the rules, regulations, and requirements of the job. A letter of understanding is normally issued when an employee lacks understanding, rather than when an employee intentionally disregards rules and policies. A letter of understanding is an assurance that an employee has been made aware of the District's expectations. This form of discipline may be issued when counseling has failed to produce the desired changes or when the employee's conduct warrants a more substantial initial step. A letter of understanding defines the areas in which improvement is required, sets goals for improvement, and informs the employee that failure to improve will result in further disciplinary action, up to and including termination. A letter of understanding is not usually placed in an employee's official personnel file. However, it may be included when referenced as an attachment in another disciplinary action, such as, but not limited to written reprimands.
3. **Written Reprimand** - A written reprimand is written documentation admonishing an employee for unacceptable performance or behavior. A written reprimand may be given to an employee based upon a singular offense or based upon a series of lesser offenses. The written reprimand will contain a statement of the specific action of the employee, which may include a specific rule violation, reasons for unacceptable performance and/or a description of unacceptable behavior. The written reprimand will also inform the employee that failure to improve will result in further disciplinary action, up to and including termination. A written reprimand is placed in the employee's official personnel file.
4. **Suspension** - Suspension is the temporary removal of an employee from District service without pay. A suspension may be imposed in cases involving misconduct or repeated chronic performance or behavioral problems. A notice of intended action is required.

5. **Demotion** - A demotion is a change in status of an employee from a position in one class to a position in a class with a lower maximum salary range. A demotion may be imposed for the same reasons as for a suspension, or for any other reasons deemed appropriate by the District. A notice of intended action is required.
6. **Termination** - A termination is the permanent removal of an employee from District service. Termination may be imposed when the offense or situation is so serious that retention is not appropriate; or when the action of the employee is the latest of a series of offenses showing that the employee is unwilling, or unable, to correct inappropriate behavior, or unacceptable performance. A notice of intended action is required.

### **Notice of Disciplinary Action**

This section of the Administrative Code shall only apply to employees who have been granted regular status and excludes employees who work at the pleasure of the Executive Director/APCO or the Board.

The appointing authority may initiate disciplinary action against a regular status employee for good cause by serving upon the employee a written notice of disciplinary action. The notice shall be served upon the employee personally or by certified mail and shall include:

1. A statement of the nature of the disciplinary action,
2. A statement of the causes therefore,
3. A statement in ordinary and concise language of the acts or omissions upon which the causes are based,
4. Copies of the documents and materials upon which the action is based,
5. A statement advising the employee of his or her right to respond to the notice before disciplinary action is taken or within seven (7) calendar days after the date of service orally, or in writing, or both,
6. A statement advising the employee that if disciplinary action is imposed, he/she may appeal such action to the Executive Director/APCO or to a Hearing Officer. A disciplinary appeal may only be requested by an employee for discipline that results in a suspension, demotion, or termination.

### **Notice of Appeal**

This section of the Administrative Code shall only apply to District employees who have been granted regular status and excludes employees who work at the pleasure of the

Executive Director/APCO or the Board. A disciplinary appeal may only be requested by an employee for discipline that results in a suspension, demotion, or termination.

An employee may file a written Notice of Appeal in response to an Order of Disciplinary Action. A written Notice of Appeal must be filed with the Director of Personnel within fourteen (14) calendar days from the effective date of the disciplinary action. The Notice of Appeal shall contain statements of fact which would support the rescission or amendment of the imposed disciplinary action. Within the Notice of Appeal, the affected employee shall indicate a choice of who shall hear the appeal, either the Executive Director/APCO or a Hearing Officer. Once the employee has indicated the hearing body selection, there shall be no right to an alternate selection, except as otherwise approved by the Executive Director/APCO. Failure to file a written Notice of Appeal within this specified time period shall be deemed a waiver of any right to appeal the action taken. No exceptions to this failure-to-file time period shall be permitted.

### **Appeal Hearing - Executive Director/APCO**

Within fourteen (14) calendar days from the receipt of the Notice of Appeal, the Director of Personnel shall schedule the appeal hearing.

Upon completion of the appeal hearing, but no later than fourteen (14) calendar days after, the Executive Director/APCO shall render a decision. The decision of the Executive Director/APCO shall be final. The Director of Personnel shall, within seven (7) calendar days of receipt of the decision of the Executive Director/APCO, notify the employee of the decision.

### **Appeal Hearing - Hearing Officer**

Within fourteen (14) calendar days from the receipt of the Notice of Appeal, the Director of Personnel shall schedule the appeal hearing.

Upon completion of the appeal hearing, the hearing officer shall prepare, in a timely manner, a record of the proceedings, and shall prepare recommended findings, conclusions, and a decision. Such documentation shall be forwarded to the Director of Personnel. If the recommended decision sustains the action in the Order of Disciplinary Action, the hearing officer's recommended decision shall be final. The Director of Personnel shall, within seven (7) calendar days of the receipt of the documentation from the hearing officer, notify the employee of the decision.

In the event the hearing officer's recommended decision rescinds or modifies the action in the Order of Disciplinary Action, the Director of Personnel shall, within seven (7) calendar days of the receipt of the documentation from the hearing officer, file the record of the proceedings and the recommended findings, conclusions, and decision with the Executive Director/APCO.

Within fourteen (14) calendar days of receipt of the documentation from the Director of Personnel, the Executive Director/APCO shall, after a review of the record, adopt or reject the hearing officer's recommended findings, conclusions, and decision. The

Executive Director/APCO shall forward his/her decision to the Director of Personnel. The Director of Personnel shall, within seven (7) calendar days of the receipt of the decision from the Executive Director/APCO, notify the employee of the decision.

In the event the Executive Director/APCO adopts the hearing officer's recommended findings, conclusions, and decision, such decision shall be final. The Director of Personnel shall, within seven (7) calendar days of the receipt of the decision from the Executive Director/APCO, notify the employee of the decision.

In the event the Executive Director/APCO rejects the hearing officer's recommended findings, conclusions, and decision, the employee may, within fourteen (14) calendar days, request that a third party Arbitrator review the record and render a decision. The Arbitrator's decision shall sustain either the imposed discipline or the decision of the hearing officer. The decision of the Arbitrator shall be final.

### **Selection of Hearing Officer and Third Party**

The Hearing Officer and Arbitrator shall be chosen from a list of five (5) qualified individuals, the names of which will be provided to the District by the American Association of Arbitrators. Each party shall alternately strike out one name until one name remains. The remaining arbitrator shall review the record and render a decision. The party to first strike out a name shall be decided by lot.

### **Appeal Hearings - Extension of Time Frames**

Only the time frames cited in the Appeal Hearing sections may be extended by mutual agreement of the parties.

### **Cost of Hearing Officer/Arbitrator**

The cost of the hearing officer, arbitrator, and court reporter shall be divided equally between the District and the Association. The hearing officer and/or arbitrator shall separately bill the District and the Association for ½ of the cost of his/her services. The court reporter shall separately bill the District and the Association for ½ of the cost of his/her services.

## **ARTICLE 22 – Weingarten Rights**

When an employee is compelled by the District management to attend an investigatory interview that the employee reasonably believes will lead to disciplinary action, the employee can request an Association representative be present at the interview. The District will reasonably accommodate the request for Association representation as required by law.

## ARTICLE 23 – Orientation for New Employees

The District agrees to provide new employees, hired into a regular position which is represented in the bargaining unit, with a new employee packet from the Association. The Shop Steward and the Association for the unit will be notified of all regular new hires in their unit.

## ARTICLE 24 – Tobacco Free Workplace

Consistent with our mission, it is the policy of the District to provide a healthy and pollution free working environment. Therefore, smoking and/or the use of smokeless tobacco products is prohibited in all District buildings, including but not limited to, open space areas, private offices, lounges, lobbies, conference rooms, and rest rooms. Such use is also prohibited in District vehicles.

Such use is permitted outside District buildings, facilities, and vehicles during non-work time.

## ARTICLE 25 – Association Label

The District agrees that employees covered by this MOU may wear on their persons and/or display at their work stations their Association affiliation but only in the form of lanyards, lapel pins, mugs, pens, wall postings of 8.5" x 11" or smaller, and/or mouse pads. Such items shall not contain any information on them that would be deemed offensive to a reasonable person, shall not in any way jeopardize the health and safety of any individuals, and shall not be in violation of the District dress code or facility policies.

## ARTICLE 26 – Representation Access

The District shall provide reasonable time off without loss of compensation or other benefits when meeting with members on matters of discipline or grievances, meet and confer preparation, negotiation preparation and when meeting with management and attending Governing Board Meetings on matters within the scope of representation.

Representatives shall be allowed to travel to the agreed upon site in a District vehicle provided a District vehicle is available. When more than one employee travels from one site to another using a District vehicle, employees shall carpool.

The Association agrees to work in an open and cooperative manner with the District to promptly discuss the results of the visit, any complaints or concerns, and ways in which to resolve and remedy the same. The Association shall promptly notify the District if the designated Association Representative is no longer the Association's authorized Association Representative and notify as to who is his designated successor. Access to



work locations shall be granted only to the Association's designated Business representative or his/her successor.

### ARTICLE 27 – Shop Stewards

It is understood by the District and Association that good organization, competent leadership, and well-informed representatives for both Management and Labor improve the employer-employee relationship and the communication process. The District recognizes the right of the Association to designate Shop Stewards from among employees in the Unit. It is agreed that the Association in appointing such Shop Stewards does so with the purpose of promoting an effective relationship between supervisors and employees by helping settle problems promptly. Consistent with the District's Administrative Code section 21.5, the Association may designate a reasonable number of employee representatives, which includes Shop Stewards, who shall be allowed reasonable time off without loss of compensation or other benefits when formally meeting with Management representatives on matters within the scope of representation. This shall not be construed to provide compensation and benefits to employees who attend or participate in such activities during their off-duty time. The Association must promptly submit a list of employee representatives, including their titles and programs, to the Director of Personnel and keep such list current. The use of District time for meetings shall not be excessive, nor shall it interfere with the performance of District services as determined by District administrators.

### ARTICLE 28 – Annual Leave

Employees in regular positions shall be eligible to earn annual leave. Employees in regular part-time positions shall be eligible to earn annual leave on a pro-rated basis. Annual leave may be used for vacation, illness, medical appointments, and other personal reasons. Except in the case of illness or emergency, annual leave shall be requested in advance and approved by the supervisor with consideration given to District operation.

The District reserves the right to require a physician's certification whenever an employee misses work due to illness, injury, or disability. After an employee is absent due to injury or illness, the employee may also be required to provide verification of being able to return to work without presenting a risk to the employee's health or safety, or to the health or safety of others. When requested, such verification of absence for illness or injury, or release to work, may be a condition to receiving annual leave or sick leave benefits, or of returning to work. Although a statement from a licensed physician normally will not be requested for absences of less than three work days, a supervisor or manager may request such a statement in situations where management determines it is warranted.

New full-time employees shall earn annual leave at a rate of one hundred sixty (160) hours per year, to be accrued on a pay period by pay period basis. Annual leave may

not be taken until it is earned, unless specifically provided for elsewhere by approval of the Board. Employees will be credited with the appropriate earned balance at the end of each pay period. An employee shall not use annual leave to extend his/her separation date.

At the completion of each year of full time continuous service, the employee will have their annual rate of earning increased by eight (8) hours to a maximum annual accrual of two hundred eighty (280) hours.

Employees may accrue annual leave on a bi-weekly basis. For those employees who have completed between five years of service and nine years of service, any annual leave balance between five hundred sixty (560) hours and six hundred forty (640) will be paid to the employee along with the employee's regular pay for the first full pay period of the successive calendar year in which the hours between 560 and 640 were accrued. Annual leave balances over six hundred forty (640) will be rolled over to the next calendar year. Those employees with balances over 640 will cease to accrue leave for a period of time equivalent to the time it would have taken to accrue the roll over hours.

For those employees who have completed between ten years of service and fourteen years of service, any annual leave balance between five hundred sixty (560) hours and six hundred eighty (680) will be paid to the employee along with the employee's regular pay for the first full pay period of the successive calendar year in which the hours between 560 and 680 were accrued. Annual leave balances over six hundred eighty (680) will be rolled over to the next calendar year. Those employees with balances over 680 will cease to accrue leave for a period of time equivalent to the time it would have taken them to accrue the roll over hours.

For those employees who have completed fifteen (15) years of service or more, any annual leave balance between five hundred sixty (560) hours and seven hundred twenty (720) will be paid to the employee along with the employee's regular pay for the first full pay period of the successive calendar year in which the hours between 560 and 720 were accrued. Annual leave balances over seven hundred twenty (720) will be rolled over to the next calendar year. Those employees with balances over 720 will cease to accrue leave for a period of time equivalent to the time it would have taken to accrue the roll over hours.

When employment with the District is terminated, an employee will receive compensation for all unused annual leave hours.

## ARTICLE 29 – Non-Discrimination Policy

It is the policy of the District to maintain an Equal Employment opportunity Program. This program constitutes, as a minimum, assured accomplishment of the following:

- (a) All recruiting, hiring, training, and promotion, in all jobs are without regard to race, color, religion, national origin, sex (except where sex is a bona

fide occupational qualification), age, physical or mental handicap, political affiliation, sexual orientation, marital or family status, veteran status, or association affiliation

- (b) All decisions on employment consider furthering the principle of equal employment opportunity.
- (c) Promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.
- (d) All personnel actions such as compensation, benefits, transfers, layoffs, return from leave-without-pay, training, education, tuition reimbursement, social, and recreational programs are administered without regard to race, color, religion, national origin, sex (except where sex is a bona fide occupational qualification), age, physical or mental handicap, political affiliation, sexual orientation, marital or family status, veteran status, or association affiliation.
- (e) The prohibition of harassment, because of race, color, religion, national origin, sex (except where sex is a bona fide occupational qualification), age, physical or mental handicap, political affiliation, sexual orientation, marital or family status, veteran status, or association affiliation, which impairs an employees working ability or emotional well-being at work.

The District is committed to the principle of affirmative action in order to achieve equal employment opportunities within the District.

### ARTICLE 30 – Bulletin Boards

Space shall be made available to the Association for locating bulletin boards which will be used for posting organization material including negotiation updates, newsletters, special bulletins, annual reports of the Association, membership brochures, benefits available to Association members such as programs/discounts, and other material which does not include solicitation by employees for financial gain or favored charities, political or religious campaigns or crusades. Such bulletin boards shall be visible, accessible to employees, and located in areas frequented by employees provided such use does not interfere with the needs of the District. All notices shall be dated and shall identify the organization representative responsible for their issuance. It is the responsibility of the organization to ensure that material posted is of current interest and that out-of-date material is removed in a timely manner.

The Association shall be allowed to use the District electronic mail system when communicating with members within the limits provided above and as approved by management.

## ARTICLE 31 – Representation Rights

The Association shall have the right, except as otherwise provided in these policies, to represent employees within the appropriate bargaining unit concerning matters within the scope of representation. They shall likewise bear an obligation to provide full and fair representation to all employees in their representation unit irrespective of employee membership in the organization.

Recognized employee organizations may establish reasonable restrictions and provisions regarding membership in and dismissal from the organization.

A reasonable number of employee representatives of recognized employee organizations shall be allowed reasonable time off without loss of compensation or other benefits when formally meeting with Management representatives on matters within the scope of representation. This shall not be construed to provide compensation and benefits to employees who attend or participate in such activities during their off-duty time. Recognized employee organizations must submit a list of employee representatives, including their titles and programs, to the Director of Personnel in advance of the meeting. The use of District time for such meetings shall not be excessive, nor shall it interfere with the performance of District services as determined by District administrators.

Recognized employee organizations may be granted use of District facilities for meetings with represented employees provided such meetings are held outside regularly scheduled working hours and provided space can be made available without interfering with District needs.

## ARTICLE 32 – Maintenance of Membership

For each employee that is a member, the District shall deduct, once each pay period, the amount of regular and periodic dues, fees, and other monies under the authority of a dues deduction authorization card furnished by the Association and signed and dated by the employee. The Association is responsible for maintaining the dues deduction forms from individual employees. Said deduction, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Association office electronically. The Department of Personnel Services shall maintain a registry of members for Association inspection.

The Association shall inform the District within the first 30 days of employment of a new employee whether such employee is a new member of the Association. Employees who are members, or who become members, of the Association shall remain members during the term of this Agreement unless canceled between May 15th and May 30th of the expiring year of the agreement. It is the employees' responsibility to submit requests to start or stop dues deductions directly to the Association and not to the District. The Association will immediately notify the District of any change to an employee's dues

deduction. The District will implement the change(s) in the pay period following the District's receipt of such notification.

The Association agrees to indemnify and hold the District harmless from any and all claims, demands, suits, or any other action arising from this Article of the MOU.

### ARTICLE 33 – Meeting Space

The District agrees to allow the Association to use conference and meeting rooms for the purpose of conducting meetings with represented employees so long as reasonable advance notice is provided to the Director of Personnel, or his/her designee, the conference and meeting rooms are not needed for District business, and utilizing the District facilities would not seriously interfere with the operating needs of the District or cause additional costs or undue inconvenience to the District. The District will provide as much notice as possible of the need to reschedule room allocations.

### ARTICLE 34 – Personal Protective Equipment

When required by assigned job duties, personal protective equipment will be provided to employees, at District expense, in order to provide suitable protection while performing assigned duties in accordance with the applicable requirements of Title 8 of the California Code of Regulations. For those employees requiring prescription eyewear, safety eyewear with suitable corrective lens will be provided, at District expense, up to a maximum of \$150 per pair of safety glasses. All purchases must be approved in advance by the District in accordance with administrative procedures established by the District.

### ARTICLE 35 – Sick Leave

Effective as soon as possible, but in no event later than October 9, 2021, barring unforeseen circumstances outside the control of the District, for a new full-time regular employee hired on or after October 9, 2021, and who was employed by the District as a temporary employee on the day immediately preceding their hire date as a full-time regular employee, the employee may carryover up to 24 hours of accrued but unused Sick Leave. For a new part-time regular employee hired on or after October 9, 2021, and who was employed by the District as a temporary employee on the day immediately preceding their hire date as a part-time regular employee, the employee may carryover up to 12 hours of accrued but unused sick leave.

Sick leave may only be used for employee sick time and employee medical appointments. Sick leave has no monetary value, and all unused hours will be canceled upon the completion of the first 13 pay periods of employment or termination of employment, whichever occurs first.

## ARTICLE 36 – Compensatory Time Off

Effective as soon as possible, but in no event later than October 9, 2021, barring unforeseen circumstances outside the control of the District, an employee required to work mandatory overtime by the District may elect compensatory time off in lieu of overtime pay. Compensatory time off shall be earned at the rate of one and one-half (1 ½) hours for each one (1) hour of mandatory overtime worked. An employee may not accumulate more than 20 hours of compensatory time off. After 20 hours of compensatory time off has been accumulated, overtime pay will be the compensation for overtime work. The 20 hour cap shall only apply to compensatory time off accumulated on or after October 9, 2021.

Prior to the effective date of any promotion, the District will pay the employee for all unused compensation time off accumulated on or after October 9, 2021, at the employee's regular rate of pay.

The use of compensatory time off shall be requested in advance and approved by the supervisor/manager.

## ARTICLE 37 – Hazardous Duty Pay

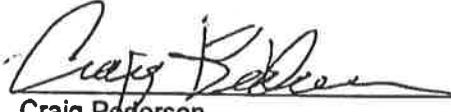
Effective as soon as possible, but in no event later than October 9, 2021, barring unforeseen circumstances outside the control of the District, employees who, in the performance of their duties, are required to 1) climb to the sampling point of stacks, storage tanks or any structure at a height of 30 feet or more 2) wear a Self-Contained Breathing Apparatus (SCBA) or safety harness or 3) perform confined space entries, shall be entitled to receive Hazardous Duty Pay. Employees shall receive such Hazardous Duty pay in the amount of two percent (2%) above the employees' current salary step for the duration of that assignment.

Employees may be required to successfully complete training prescribed by the District as a condition of employment in positions requiring the above duties.

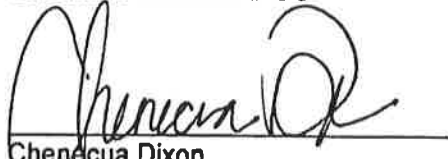
The Hazardous Duty pay shall not constitute part of the employee's base rate, but shall be a bonus for performing these duties. Hazardous Duty Pay shall be considered part of the regular rate of pay for the purpose of computing overtime.

Signatures below verify that this Memorandum of Understanding is accepted by the Governing Board of the San Joaquin Valley Unified Air Pollution Control District and Association

**For the District**

  
Craig Pederson  
Chair, SJVUAPCD Governing Board

  
Samir Sheikh  
Executive Director/APCO

  
Chenequa Dixon  
Director of Personnel

**For the Association**

  
Kim Gillingham  
Labor Representative  
Goyette & Associates

  
Michael Hamaguchi  
Association President

  
Leland Villalvazo  
Bargaining Unit Representative

  
Dio Carrillo  
Bargaining Unit Representative

  
Thomas Aguirre  
Bargaining Unit Representative

This Memorandum of Understanding is executed on July 1, 2021.