

**AGREEMENT**

**BETWEEN**

**THE**

**STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES**

**ON BEHALF OF THE**

**DEPARTMENT OF JUSTICE**

**AND**

**CRIMINAL INVESTIGATORS  
ASSOCIATION**

**2007 - 2009**

## TABLE OF CONTENTS

ARTICLE 1 – PARTIES TO THE AGREEMENT .....	1
ARTICLE 2 – RECOGNITION.....	1
ARTICLE 3 – NON-DISCRIMINATION .....	1
ARTICLE 4 – MANAGEMENT RIGHTS.....	1
ARTICLE 5 – CIA RIGHTS.....	2
ARTICLE 6 – CIA MEMBERSHIP AND DUES.....	4
ARTICLE 7 – FAIR SHARE.....	5
ARTICLE 8 – TRIAL SERVICE .....	6
ARTICLE 9 – SENIORITY, LAYOFF AND RECALL.....	7
ARTICLE 10 – PERSONNEL RECORDS .....	9
ARTICLE 11 – DISCIPLINE AND DISCHARGE .....	10
ARTICLE 12 – GRIEVANCE AND ARBITRATION PROCEDURE.....	11
ARTICLE 13 – HOURS OF WORK.....	13
ARTICLE 14 – SALARY ADMINISTRATION .....	15
ARTICLE 15 – SALARIES.....	17
ARTICLE 16 – PERS .....	17
ARTICLE 17 – INSURANCE BENEFITS.....	18
ARTICLE 18 – EMPLOYEE ASSISTANCE PROGRAM .....	19
ARTICLE 19 – WORKING OUT OF CLASSIFICATION.....	19
ARTICLE 20 – TRAVEL, MEALS, LODGING, MILEAGEAND MOVING EXPENSE REIMBURSEMENT.....	20
ARTICLE 21 – CALL BACK .....	20
ARTICLE 22 - PERSONAL LEAVE .....	21
ARTICLE 23 – SICK LEAVE .....	21
ARTICLE 24 - LEAVE OF ABSENCE WITH PAY .....	24
ARTICLE 25 – LEAVE OF ABSENCE WITHOUT PAY.....	25
ARTICLE 26 – PARENTAL LEAVE.....	26
ARTICLE 27 – VACATION LEAVE .....	26
ARTICLE 28 – HOLIDAYS .....	28
ARTICLE 29 – LABOR/MANAGEMENT COMMITTEE .....	30
ARTICLE 30 – SAFETY AND HEALTH.....	31
ARTICLE 31 – INCLEMENT CONDITIONS .....	32
ARTICLE 32 – GENERAL PROVISIONS.....	32
ARTICLE 33 – NO STRIKE OR LOCKOUT .....	33
ARTICLE 34 – COMPLETE AGREEMENT/PAST PRACTICES .....	33
ARTICLE 35 – SEVERABILITY.....	34
ARTICLE 36 – LIMITED DURATION EMPLOYEES .....	34
ARTICLE 37 – RECOUPMENT OF OVERPAYMENTS .....	34
ARTICLE 38 – LEGAL FEES .....	35
ARTICLE 39 – TERM OF AGREEMENT .....	36
APPENDIX A .....	38

## **ARTICLE 1 – PARTIES TO THE AGREEMENT**

This Agreement is made and entered into by and between the State of Oregon (hereinafter the “Employer”), acting by and through its Department of Administrative Services (DAS) on behalf of the Department of Justice (hereinafter the “Department”) and the Oregon Department of Justice Criminal Investigators Association (hereinafter the “CIA”), for the purpose of setting forth the parties’ agreement with regard to rates of pay, hours worked, and other conditions of employment.

## **ARTICLE 2 – RECOGNITION**

The Employer and the Department recognize the CIA as the sole and exclusive bargaining representative for all employees in the Department of Justice, Criminal Justice Division, who are classified as Criminal Investigator or Criminal Financial Investigator pursuant to ORS 181.610(15) (formerly entitled Investigator 4 and Financial Investigator 2 respectively), excluding supervisory employees, managerial employees, confidential employees, temporary employees as defined in ORS 240.309, and elected officials.

## **ARTICLE 3 – NON-DISCRIMINATION**

### **Section 1.**

The Employer will not interfere with or discriminate in respect to any term or condition of employment against any employee covered by this Agreement because of membership and/or activity required in this Agreement on behalf of members of this bargaining unit.

### **Section 2.**

Discrimination on the basis of race, sex, color, religion, national origin, age, marital status, sexual orientation, disability, political affiliation, or any other factor prohibited by law (except where there are bona fide occupational qualifications) will not be tolerated. The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without regard to such status. The CIA shall share equally with the Department the responsibility for applying the provisions of this Agreement in a non-discriminatory fashion.

### **Section 3.**

Discrimination complaints for which a remedy is available under state or federal law, shall not be subject to the grievance procedure provided for herein.

## **ARTICLE 4 – MANAGEMENT RIGHTS**

### **Section 1. General.**

All rights and functions, except those which are expressly abridged by this Agreement, shall remain vested with the Employer.

## Section 2. Enumeration.

The rights of the Employer include, but are not limited to, the exclusive right to determine the mission of the Department, its divisions, and sections; set standards of service including quantity and quality of work to be performed; determine the procedures and standards of selection for employment and promotion; train, direct, schedule, test, evaluate, and transfer employees; take disciplinary action for cause up to and including dismissal; relieve employees from duty because of lack of work, funds, or constitutional legislatively directed reductions in service; maintain the efficiency of operations; determine the methods, means, and personnel by which operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out the Department's mission in emergencies; and exercise complete control and discretion over the Department's organization and the technology of performing its work to include equipment selection and assignment. The Employer has the right to make rules and regulations pertaining to employees. Nothing herein shall be considered a waiver of the CIA's rights to collectively bargain any changes in past practices and/or subjects which are mandatorily negotiable.

## **ARTICLE 5 – CIA RIGHTS**

### Section 1. CIA Representative.

The CIA will notify the Department in writing of its representative. After such notice is provided and following proper introductions, the representative shall have reasonable access to the premises of the Department during all work hours to conduct CIA business. Such visits are not to interfere with the normal flow of work.

### Section 2. Employee Representatives.

The CIA shall provide the Department with the names of employee representatives, including officers and Executive Board members.

An employee representative will be granted mutually agreed upon paid time off during his/her regularly scheduled working hours to investigate and process a grievance upon notice to his/her immediate supervisor. However, only one (1) employee representative will be in pay status for any one (1) grievance. If permitted activities would interfere with the work the employee representative or affected employee is expected to perform, the immediate supervisor shall, within the next work day, arrange a mutually satisfactory time for the requested activity.

When an employee requests an employee representative for an investigatory interview which the employee reasonably believes may result in disciplinary action against that employee, the employee representative will receive his/her regular rate of pay during such interview, if such occurs during the representative's regularly scheduled hours of employment. Every good faith effort shall be made to arrange the interview on employee and assigned representative's work time.

Employee representatives shall record time spent investigating and processing grievances and/or attending investigatory interviews on their time sheets according to the time reporting policies and procedures of the Department.

The Employer is not responsible for any compensation of employees or their representative for time spent investigating and processing grievances outside their regularly scheduled hours of employment. The Employer is not responsible for any travel or subsistence expenses incurred by a grievant or employee representative for any CIA business.

### Section 3. Bulletin Boards.

The Department agrees to allow separate wall space in each work site, not to exceed 3' x 4', for a bulletin board to be used by the CIA for the posting of notices and bulletins relating to the CIA. The CIA shall limit its postings of notices and bulletins to such bulletin boards. All postings will be signed and dated by an appropriate CIA officer.

### Section 4. Access to New Employees.

During an employee's first (1<sup>st</sup>) week of employment with the Criminal Justice Division, or as soon thereafter as is practical, a CIA representative will be permitted access to the new employee for up to one (1) hour. Such visit shall be scheduled for an office, classroom or other location within the Division facility, and shall be held during other than the lunch hour. The Employer will encourage new employees to attend the CIA's orientation.

### Section 5. Department Facilities.

The Department of Justice, Criminal Justice Division, shall permit Division employees who are represented by the CIA and their authorized representatives, to use the Division facility for CIA meetings, with adequate advance notice subject to availability and management approval.

### Section 6. CIA Business Leave.

a. At the CIA's request and subject to the operating requirements of the Department, employee representatives shall be granted personal leave, accrued vacation leave, accrued compensatory time, or leave of absence without pay to attend the CIA's employee representative training. However, recall from such leave may occur due to emergencies, or to meet the operating needs of the Department.

b. Employees elected to CIA office or otherwise selected by the CIA to conduct CIA business that takes them away from their employment may be granted reasonable personal leave, accrued vacation leave, accrued compensatory time, or leave of absence without pay, upon advance notice by the CIA. Every good faith effort will be made to provide as much notice as possible. The determination of granting such leave shall be made by the Department, based on operational needs. Leave will be

requested through the normal Department procedure. However, recall from such leave may occur due to emergencies, or to meet the operating needs of the Department.

Section 7. Negotiations.

The Department agrees to allow up to two (2) employees paid time off for attendance at negotiating sessions (successor or interim bargaining), when such negotiations are scheduled during the employee's regular work shift.

Section 8. Labor/Management Relations Training.

Subject to mutual agreement of the parties, CIA employee representatives, including Executive Board members, shall be allowed paid release time to engage in Labor/Management Relations Training.

**ARTICLE 6 – CIA MEMBERSHIP AND DUES**

Section 1.

All applications for CIA membership and/or dues deduction shall be submitted by the employee to the CIA. All applications for membership and/or dues deduction that the Department receives shall be promptly forwarded to the CIA.

Section 2.

The Department shall deduct from the wages of employees in the bargaining unit who are members of the CIA and who have authorized such deductions a sum equal to CIA dues. The deduction shall begin on the first (1<sup>st</sup>) payroll period following such authorization. A listing of dues deducted by the Department for the previous month shall be forwarded to the CIA by the third (3<sup>rd</sup>) workday of each month with the dues check for the previous month. The listing shall include the employee's name (last, first, middle initial) and amount deducted.

Section 3.

The Department shall continue to deduct dues from employees as long as the employee remains on the payroll, except when the CIA notifies the Department, in writing, that the Department may cancel the CIA member's dues deduction.

Section 4.

The Department shall reinstate the payroll deduction of CIA dues upon return from leave without pay for those employees who were having dues deducted immediately before taking leave.

### Section 5.

The CIA shall indemnify and hold the Employer harmless from and against any claims, demands, suits, losses, costs and expenses, including but not limited to attorney fees, incurred by the Employer as a result of action taken by the Employer in compliance with the terms and provisions of this Article.

## **ARTICLE 7 – FAIR SHARE**

### Section 1.

The Employer and the CIA agree that all employees in the bargaining unit who are not members of the CIA shall make fair share payments in lieu of dues paid to the CIA. The Employer and the CIA recognize that the CIA is required to represent every employee covered by this Agreement, making each such employee a recipient of the CIA's services. Employees who are not members of the CIA shall make payments in lieu of dues to the CIA. Such payments shall be in the amount set by the CIA and shall reflect only its costs in providing representation services.

### Section 2.

The CIA shall certify, in writing, to the Department the amount of dues approved by the CIA and the amount of payments in lieu of dues. Effective the first day of the month following contract approval, the Department shall deduct from the wages of employees in the bargaining unit, who are not members of the CIA, an amount equivalent to CIA dues. These deductions also will be made from the wages of new bargaining unit employees who do not become members of the CIA or from the employees who exercise their right to cancel membership. Such deductions will begin on the first (1<sup>st</sup>) payroll period following employment or written notice of election to the Department and the CIA. A listing of fair share deductions made by the Department for the previous month shall be forwarded to the person or the account designated, in writing, by the CIA's President by the third (3<sup>rd</sup>) work day of each month with the payment in lieu of dues check for the previous month. The listing shall include the employee's name (last, first, middle initial) and the amount deducted.

### Section 3.

Bargaining unit members who exercise their right of non-association, if based on a bona fide religious tenet or teaching of a church or religious body of which such employee is a member, shall pay an amount of money equivalent to regular monthly CIA dues to a non-religious charity or to another charitable organization mutually agreed upon, in writing, by the employee and the CIA. At the time of payment on a monthly basis, written notice of such payment shall simultaneously be sent to the Department and the CIA by the employee. Notwithstanding an employee's claim of exemption under this section, the Department shall deduct fair share from the employee's wages pursuant to this Article, until agreement has been reached between the employee and the CIA.

#### Section 4.

The Department shall reinstate the payroll deduction of fair share payments upon return from leave without pay for those employees who were having such payments deducted immediately before taking leave.

#### Section 5.

The CIA shall indemnify and hold the Employer harmless from and against any claims, demands, suits, losses, costs and expenses, including but not limited to attorney fees, incurred by the Employer as a result of action taken by the Employer in compliance with the terms and provisions of this Article. Any dispute between an employee, the CIA or the Employer concerning the amount of the payments in lieu of dues or a religious objection is not subject to the grievance procedure. Such disputes are solely between the CIA and the affected employee and no recourse shall be available through this Agreement.

### **ARTICLE 8 – TRIAL SERVICE**

#### Section 1.

Each employee appointed to a position in the bargaining unit shall serve an initial trial service period.

#### Section 2.

a. The trial service period is recognized as an extension of the selection process and is the time immediately following appointment and shall not exceed 180 days, except as provided elsewhere in this Article.

b. The trial service period for Criminal Financial Investigators who have obtained DPSST “Basic” certification as of date of hire shall be 180 calendar days. The trial service period for any Criminal Financial Investigator who has not obtained a DPSST “Basic” certificate at time of hire shall not exceed 548 days. It is understood that each Criminal Financial Investigator must serve a minimum of 180 calendar days trial service but the period of trial service shall end prior to 548 calendar days upon the offering of proof of certification.

#### Section 3.

At any time during the trial service period, the Department may remove an employee, if in the judgment of the supervisor, appointing authority or designee, the employee is unable or unwilling to perform his/her duties satisfactorily or his/her habits and dependability do not merit his/her continuation in the position. A removed employee shall have no right to appeal the Department’s decision under the Agreement.

#### Section 4.

An employee's trial service period may be extended in instances where an employee has any leave of absence of fifteen (15) days or more. A leave of absence shall extend the trial service period by the number of calendar days of the leave taken by the employee.

An employee's trial service may also be extended for the purpose of developing the skills or knowledge necessary for competent job performance. Requests for such extensions are subject to mutual written agreement between the Department and the CIA. A copy of the extension agreement shall be placed in the employee's Personnel File and provided to the CIA.

### **ARTICLE 9 – SENIORITY, LAYOFF AND RECALL**

#### Section 1. Seniority Definition.

Effective on execution of this Agreement, "seniority" is determined by the length of an employee's continuous employment in the Department of Justice, Criminal Justice Division since the last date of hire. When an employee takes a leave of absence without pay for more than ninety (90) calendar days, the time spent on leave does not count toward seniority accrual, unless the leave without pay qualifies under FMLA or OFLA.

#### Section 2. Seniority List.

The Department will provide the CIA with a copy of the seniority list in January of each year. The CIA will be notified, in writing, by the Department of changes to the seniority list as they occur.

#### Section 3. Loss of Seniority.

An employee shall lose all seniority in the event of discharge, voluntary termination or layoff of more than two (2) years.

#### Section 4. Layoff Procedure.

A layoff is defined as a separation from state service for involuntary reasons other than resignation, not reflecting discredit on an employee. For the purposes of layoff the Criminal Investigator and Criminal Financial Investigator shall be treated as separate classifications.

The layoff procedure shall occur in the following manner:

a. The Department shall determine the classification(s) affected and the employees in the affected classification(s) shall be notified of their potential layoff. An employee shall be given written notice of layoff as far in advance as possible, but not less than thirty (30) calendar days before the effective date, stating the reason(s) for the

layoff. The Department shall notify, in writing, all affected employees of their seniority. The Department shall notify the CIA, in writing, of the seniority of all employees in all affected classifications.

b. All non-regular status employees/temporaries working in the affected classification(s) in which a layoff may occur shall be terminated prior to the actual layoff of trial service or regular status employees. A trial service employee shall be laid off prior to the layoff of any regular status employee.

c. Employees shall be laid off and seniority calculated within the following separate categories:

1. Permanent full-time positions
2. Permanent part-time positions

d. Regular status employees shall be laid off on the basis of inverse seniority. For purposes of administering the layoff provisions of this Article, seniority is defined as the length of an employee's continuous service in their current classification since the last date of hire in that classification, excluding temporary service, or a break in service which is defined as a separation or interruption of employment without pay of more than one (1) year. All part-time service shall be credited on a prorated basis. If two (2) or more employees have equal service credit, the order of layoff shall be in inverse of the greatest length of continuous state service.

Any trial service employee who is laid off shall not be placed on the Department layoff list but shall be restored to the eligible list from which certification was made if the eligible list is still active. Restoration of the list shall be for the remaining period of eligibility that existed at the time of appointment from the list.

Regular status employees shall be placed on the Department layoff list for the classification held at time of layoff.

#### Section 5. Recall.

Layoff status shall not extend beyond two (2) years. Employees will be called back from layoff in the inverse order of layoff provided the employee possesses the demonstrated abilities to perform the duties as required. An employee on layoff status shall accept or decline an opening within fifteen (15) calendar days of notification. The employee is obligated to keep the Department informed of his/her current address. When recall occurs, the Department will notify the employee through certified mail. An employee's denial or acceptance of the recall shall be conveyed in writing. In the event the employee declines or fails to notify the Department in the above-specified time, all recall rights will be waived.

When CIA members are on layoff status, all bargaining unit temporary employment opportunities within the Criminal Justice Division, when funding for such employment is available to the Department, will be offered to qualified CIA members on the layoff list in seniority order. Acceptance of such an opportunity will have no contractual impact, i.e., it will not affect layoff status or seniority standing. The Department will have no further

obligation to make offers of temporary employment in instances where an employee has turned down such an offer.

## **ARTICLE 10 – PERSONNEL RECORDS**

### **Section 1.**

An employee may, upon request, inspect the contents of his/her official Department personnel file, except for confidential reports from previous employers. No grievance material shall be kept in the official personnel file. There shall be only one (1) official personnel file kept for each employee.

### **Section 2.**

No information reflecting critically upon an employee shall be placed in the employee's official personnel file that does not bear the signature of the employee. The employee shall be required to sign such material to be placed in his/her official personnel file, provided the following disclaimer is attached:

“Employee's signature confirms only that the supervisor has discussed and given a copy of the material to the employee, and does not indicate agreement or disagreement.”

If the employee is not available within a reasonable period of time or the employee refuses to sign the material, the Department may place the material in the file, provided a statement has been signed by two (2) management representatives and a copy of the document was mailed to the employee at his/her address of record, with a copy to the CIA.

### **Section 3.**

If the employee believes that any of the above material is incorrect or a misrepresentation of facts, he/she shall be entitled to prepare, in writing, his/her explanation or opinion regarding the prepared material. This shall be included as part of the personnel record until the material is removed.

### **Section 4.**

An employee may include in his/her official personnel file a reasonable amount of relevant material such as letters of commendation, licenses, certificates, college course credits and other material that reflects credit on the employee.

### **Section 5.**

Access to the employee's official personnel file shall be as authorized by existing DAS policy and/or rule, statute, or as authorized by the employee.

Section 6.

The Department shall remove any written reprimand from an employee's official personnel file after twenty-four (24) months, provided that the employee has received no similar type of discipline during that period.

Disciplinary notices of reduction in pay, suspension and demotion will be removed from an employee's official personnel file after sixty (60) months, provided that the employee has received no similar type of discipline during that period.

Section 7.

Prior to a decision being made regarding the release of information or materials requested pursuant to a subpoena in connection with a criminal case or a public records request, the Department will make every reasonable effort to notify the employee or the employee's supervisor in a timely manner. However, nothing will prevent the Department from complying with the applicable laws.

**ARTICLE 11 – DISCIPLINE AND DISCHARGE**

Section 1. Discipline.

Discipline shall include: written reprimand, reduction in pay, demotion, suspension without pay, and dismissal. The principles of progressive discipline shall be used when appropriate. Discipline shall be imposed only for just cause.

Section 2. Reduction, Demotion and Suspension Appeals.

An employee reduced in pay, demoted, or suspended without pay shall receive written notice of the discipline with the specific charges and facts supporting the discipline at the time disciplinary action is taken. The reduction, demotion, or suspension of a regular status employee may be appealed directly to Step 2 of the grievance procedure. The grievance appeal must be received within fifteen (15) calendar days from the effective date of the action. The Attorney General or designee shall respond within fifteen (15) calendar days following receipt of the appeal. If the grievance is unresolved following the Step 2 review, the CIA may serve notice of its intention to arbitrate the grievance in accordance with the Grievance and Arbitration Procedure Article.

Section 3. Dismissal Appeals.

a. Where dismissal may be contemplated, a written pre-dismissal notice shall be given to a regular status employee against whom a charge is presented. Such notice shall include the known complaints, facts and charges, and a statement that the employee may be dismissed. The employee shall be afforded an opportunity to refute such charges or present mitigating circumstances to the Attorney General or designee at a time and date set forth in the notice, which date shall not be less than seven (7) calendar days from the date the notice is received. The employee shall be permitted to have a CIA representative present. At the discretion of the Attorney General or

designee, the employee may be suspended with or without pay, reassigned, or be allowed to continue to work as specified in the pre-dismissal notice. Should an employee be suspended without pay, the employee will first be afforded notice and the right to present mitigating circumstances to the Attorney General or designee.

b. Dismissal appeals for regular status employees shall be filed at Step 2 of the grievance procedure and must be within fifteen (15) calendar days from the effective date of the action. The Attorney General or designee shall respond within fifteen (15) calendar days following receipt of the appeal. If the grievance is unresolved following the Step 2 review, the CIA may serve notice of its intention to arbitrate the grievance in accordance with the Grievance and Arbitration Procedure Article.

#### Section 4.

If an employee does not approve sending of notices of reduction, demotion, suspension, pre-dismissal and dismissal to the CIA, then the employee shall sign a waiver form. If a waiver is not signed, the notices shall be forwarded to the CIA on the same day as the employee is notified.

#### Section 5.

Reasonable notice will be provided to an employee if or when the employer believes the employee will be the subject of an investigatory interview. Upon request, an employee shall have the right to CIA representation during an investigatory interview that an employee reasonably believes will result in disciplinary action to the employee. The employee will have the opportunity to consult with a CIA representative before the interview, but such consultation shall not cause an undue delay.

If the Parties agree to record an interview, a copy of the complete interview of the employee, noting all recess periods, shall be furnished, upon request, to the other parties.

Interviews and investigations shall be concluded with no unreasonable delay. The employee shall be advised of the results of the investigation and any future action to be taken on the incident.

### **ARTICLE 12 – GRIEVANCE AND ARBITRATION PROCEDURE**

#### Section 1.

A grievance is defined as a dispute regarding the meaning or interpretation of a particular clause or provision of this Agreement or regarding an alleged violation of the terms of this Agreement.

#### Section 2. Grievance Steps.

a. Step One (1). Within fifteen (15) calendar days of the date the grievant or the CIA knows or by reasonable diligence should have known of the alleged grievance,

the grievant or the CIA shall submit, in writing to the Chief Investigator or designee of the Criminal Justice Division, a statement of the grievance setting forth the relevant facts, the Article(s) of the contract alleged to be violated and the remedy requested. Prior to issuing a response, the grievant or the CIA and the Chief Investigator or designee will attempt to meet to resolve the grievance at the lowest possible level of management. Failure to meet will not invalidate the grievance. If unresolved, the Chief Investigator or designee shall respond to the CIA and the grievant in writing within fifteen (15) calendar days of receipt of the grievance.

If the grievance is resolved at Step 1, the grievance settlement shall be reduced to writing and signed by the CIA and the grievant and the Chief Investigator or designee. The Parties agree that Step 1 grievance settlements are nonprecedential and may not be cited by either Party or their agents or members in any arbitration proceeding now or in the future.

b. Step Two (2). In the event the grievance remains unadjusted as a result of the Step 1 process above, the grievant, together with their CIA representative, or the CIA may submit the grievance in writing to the Attorney General or designee within fifteen (15) calendar days of the date the Step 1 response was received, or, in the event no response was received, within fifteen (15) calendar days of the date the response was due, whichever is sooner. A copy will be simultaneously provided to the Department of Administrative Services, Labor Relations Unit. The Attorney General or designee shall respond, in writing, within fifteen (15) calendar days of receipt of the grievance.

c. Step Three (3). In the event the grievance still remains unadjusted after Step 2 above, the CIA and not the employee, within fifteen (15) calendar days after the response was due or received, whichever is sooner, may serve notice of its intention to arbitrate the grievance. Said notice shall be in writing and delivered to the Attorney General or designee, with a copy to the Department of Administrative Service, Labor Relations Unit.

### Section 3. Selection of the Arbitrator.

In the event arbitration is requested, the party requesting arbitration shall request a list of seven (7) arbitrators from the Employment Relations Board. Within fifteen (15) calendar days of the receipt of the list, unless mutually agreed otherwise, the designated management and CIA representatives will select an arbitrator by alternately striking one (1) name from the list until only one (1) name is left. The first strike of the list will be determined by lot.

### Section 4. Arbitrator's Authority.

The Parties agree that the decision or award of the arbitrator shall be final and binding on each of the Parties. The arbitrator shall have no authority to rule contrary to, to amend, add to, subtract from, change or eliminate any of the terms of this Agreement.

Section 5. Expenses of Arbitration.

The cost of the arbitrator shall be borne by the losing party. The arbitrator shall designate which side is the losing party. Each Party shall be responsible for the costs of presenting its own case to arbitration. Should an arbitration be cancelled due to settlement, the Parties shall split equally any cancellation fee.

Section 6.

Time limits may be extended by agreement of the Parties. Such extensions must be in writing and shall become part of the grievance record.

Section 7.

Failure of the grievant or CIA to comply with the time limits outlined above shall constitute abandonment of the grievance and it cannot be resubmitted. Failure of management to respond to the grievance at any step constitutes a denial.

**ARTICLE 13 – HOURS OF WORK**

Section 1. Work Week.

A work week consists of seven (7) consecutive calendar days commencing at 12:01 a.m. Monday and ending at 12:00 midnight the following Sunday, and normally includes five (5) consecutive work days followed by two (2) consecutive days off.

Section 2. Setting of Schedule.

Employees shall submit a proposed schedule for the following workweek to address the assigned workload needs by close of business on Thursday. The employee's supervisor may approve or disapprove the proposed schedule, or make changes to address workload needs including rescheduling the employee prior to the schedule being set by close of business on the following Monday. Once set (after close of business on Monday), a schedule may also be changed by an employee's supervisor to address workload needs. Additionally, nothing prohibits an employee and his/her supervisor from mutually agreeing to adjust the set schedule. Employees may also with the approval of the Employer voluntarily split or move their days off without the Employer incurring overtime liability

Section 3. Hours Worked.

Employees will be compensated at their regular rate of compensation for all hours worked between zero (0) and forty (40) hours during a work week.

Section 4. Overtime.

Whenever the supervisor changes the employee's set schedule (after close of business on Monday), other than by mutual agreement, overtime liability will accrue. However,

such entitlement is predicated on the employee working in excess of the daily minimum of eight (8) hours, or as otherwise set if in excess of the daily minimum of eight (8) hours (for example, a ten (10) hour day), or weekly maximum of forty (40) hours.

No overtime liability will accrue when a set schedule is changed due to an emergency. Emergency for this purpose is defined as circumstances requiring immediate action by one or more investigators. "Emergency" does not include circumstances for which there was advance notice.

Compensation for each overtime hour accrues at the rate of one and one-half (1 ½) times the equivalent of the employee's hourly rate. Hourly rates are based on employee's regular rate of pay. For purposes of computing overtime, hours worked shall include all paid leave with the exception of sick leave. However, paid sick leave used shall be counted toward any overtime calculation in instances where the employee is mandated to work on a regularly scheduled day off during the same work week in which sick leave has been taken.

Employees must receive prior approval to work overtime hours from their immediate supervisors. When the latter are not available, employees should contact and receive advance approval from the Chief Counsel or designees. If none of the management identified above are available and the situation requires employees to incur overtime, employees must notify management as soon as possible thereafter.

#### Section 5. Election of Cash/Compensatory Time Off.

Employees required to work overtime will be able to elect payment in the form of cash or compensatory time off (up to the maximum accrual amount). However, whenever a federally funded program provides for overtime funding for the overtime worked, such compensation will be limited only to that form of payment. In instances where voluntary overtime is offered, the Employer can designate in advance the form of payment (cash or comp).

When the form of payment for overtime is cash, it will occur no later than the first (1<sup>st</sup>) of the second (2<sup>nd</sup>) month following the calendar month in which the overtime was worked. No application of this Article shall be interpreted to provide for compensation for overtime at a rate exceeding time and one-half (1 ½) or to effect "pyramiding" of overtime and callback penalty payments.

There shall be a maximum accumulation of one hundred (100) hours of compensatory leave at any one time in lieu of overtime pay for each employee. An employee whose compensatory leave balance exceeds the accumulation limitation will automatically have such hours paid in cash.

Up to sixty (60) hours of compensatory time may be paid off annually at the option of the Employer, except that under no circumstances can the agency reduce the accumulated amount below twenty (20) hours.

The usage of compensatory leave shall be governed by the Fair Labor Standards Act but will require a reasonable notice of not less than seven (7) days. Compensatory leave may be used with less than seven (7) days notice at a time mutually agreeable with the employee and the employee's supervisor.

In the case of conflict between two (2) or more employees, the employee first requesting the time will be given preference.

#### Section 6. Regulating Overtime.

The Employer has the sole discretion to regulate the use of overtime. Employees may, after working forty (40) hours during a work week, request to take the remainder of the work week (or any portion thereof) off. Requests to stop work shall be made to the employees' immediate supervisors, however, the Employer has the sole discretion to approve or disapprove the employee's request.

#### Section 7. Standby.

Management can require employees to be on standby status. Employees are on standby status when they are required by management to remain available at home, or while in travel status to remain available at their motel or other particular offsite location or to remain near their landline telephones until called to duty or until relieved by management. While on standby status, compensation accrues at the same rate as hours worked.

#### Section 8. On-Call.

On-call status requires employees to carry an electronic pager or cell phone provided by the Employer. On-call status is not considered hours worked and is not compensable. Pagers or cell phones must be with employees at all times. Employees should notify their immediate supervisors when they will not be able to have their pagers or cell phones with them during non-working hours. If the employer requires assistance while employees are off-duty, it will page or call the employees. No disciplinary action will be taken against employees for not responding to a page or call.

### **ARTICLE 14 – SALARY ADMINISTRATION**

#### Section 1.

a. All employees shall be paid no later than the first (1<sup>st</sup>) day of the month. If a payday occurs on Monday through Friday, payroll checks shall be released to employees on that day. When payday falls on a Saturday, Sunday or holiday, employee paychecks shall be made available after 8:00 a.m. on the last working day of the preceding month. When an employee is not scheduled to work on the payday, the paycheck may be released before payday if the paycheck is available and the employee has completed a request for release of payroll check, on the condition that the employee may not cash or deposit the check before the normal release time. All checks released early under this Article shall be accompanied by written notice from the Department as to

the normal release time and date for that employee. The release day for December paychecks dated January 1 shall be the first (1<sup>st</sup>) working day in January to avoid the risk of December's paychecks being included in the previous year's earning for tax purposes.

b. Employees shall be paid no less than the minimum rate of pay for their classification upon appointment to a position in the Department.

c. Release of sixty percent (60%) of an employee's earned gross wages before the employee's designated payday shall be authorized subject to approval of the Department in emergency cases upon receipt of a written request from the employee that describes the emergency. An emergency situation shall be defined as an unusual, unforeseen event or condition that requires immediate financial attention by an employee.

## Section 2. Salary Increase.

a. New hires will be given a salary eligibility date of January 1. If a new employee starts work before July 1, he/she will be eligible for consideration for a salary increase the following January 1. Employees who start work July 1 or later will not be eligible for consideration for a salary increase the following January 1.

b. Employees shall be granted an annual salary increase on their eligibility date if the employee is not at the top of the salary range of the employee's classification, and provided the employee's performance has not been deficient.

c. Employees who do not receive a salary increase shall receive timely notice of deficient performance or conduct during the evaluation period. "Timely" shall be a reasonable amount of time, taking into consideration the specific alleged deficient performance. Such notice shall provide the employee with adequate opportunity to correct the problem prior to the end of the evaluation period.

Such employees and the CIA president shall also be given notification in writing of the withholding of a salary increase at least fifteen (15) calendar days prior to the employee's eligibility date.

A denial of a salary increase shall be for just cause.

## Section 3. Salary on Lateral Transfer.

An employee's salary eligibility date shall remain the same when transferring from one position to another within the bargaining unit which has the same salary range.

## Section 4. Effect of Break In Service.

When an employee separates from state service and subsequently returns to state service with the Department's Criminal Justice Division within a two (2) year period, except as a temporary employee, the employee's previous recognized service date shall be adjusted by the amount of break in service and in accordance with Section 2a above.

Section 5. Rate of Pay on Appointment from Layoff List.

When an employee is appointed from a layoff list to a position in the same class in which the employee was previously employed, the employee shall be paid at the same salary step at which such employee was being paid at the time of layoff.

**ARTICLE 15 – SALARIES**

Section 1. General Salary Increases.

Effective July 1, 2007, salary schedules shall be adjusted upward by three percent (3%).

Effective November 1, 2008, salary schedules shall be adjusted upward by three and two tenths percent (3.2%).

Effective January 1, 2008, an additional top step shall be added to all salary ranges and the current lowest step dropped. At that time all eligible employees will move up one step.

**ARTICLE 16 – PERS**

Section 1. Public Employees Retirement System (“PERS”) Members

For purposes of this Section 1, “employee” means an employee who is employed by the State on August 28, 2003 and who is eligible to receive benefits under ORS Chapter 238 for service with the State pursuant to section 2 of chapter 733, Oregon Laws 2003.

Retirement Contributions. On behalf of employees, the State will continue to “pick up” the six percent (6%) employee contribution payable as the law requires. The parties acknowledge that various challenges have been filed that contest the lawfulness, including the constitutionality, of various aspects of PERS reform legislation enacted by the 2003 Legislative Assembly, including chapters 67 (HB 2003) and 68 (HB 2004) of Oregon Laws 2003 (“PERS Litigation”.) Nothing in this agreement shall constitute a waiver of any party’s rights, claims or defenses with respect to the PERS Litigation.

Section 2. Oregon Public Service Retirement Plan Pension Program Members

For purposes of this Section 2, “employee” means an employee who is employed by the State on or after August 29, 2003 and who is not eligible to receive benefits under ORS chapter 238 for service with the State pursuant to section 2 of chapter 733, Oregon Laws 2003.

Contributions to Individual Account Programs. As of the date that an employee becomes a member of the Individual Account Program established by section 29 of chapter 733, Oregon Laws 2003, and pursuant to Section 3 of that same Chapter, the State will pay an amount equal to six percent (6%) of the employee’s monthly salary, not to be deducted from the salary, as the employee’s contribution to the employee’s account in

that program. The employee's contributions paid by the State under this section 2 shall not be considered to be "salary for the purposes of determining the amount of employee contributions required to be contributed pursuant to section 32 of chapter 733, Oregon Laws 2003.

### Section 3. Effect of Changes in Law (Other than PERS Litigation)

In the event that the State's payment of a six percent (6%) employee contribution under Section 1 or under Section 2, as applicable, must be discontinued due to a change in law, valid ballot measure, constitutional amendment, or a final, non-appealable judgment from a court of competent jurisdiction (other than in the PERS Litigation), the State shall increase by six percent (6%) the base salary rates for each classification in the salary schedules in lieu of the six percent (6%) pick-up. This transition shall be done in a manner to assure continuous payment of either the six percent (6%) contribution or a six percent (6%) salary increase.

For the reasons indicated above, or by mutual agreement, if the State ceases paying the applicable six percent (6%) pickup and instead provides a salary increase for eligible bargaining unit employees during the term of the Agreement, and bargaining unit employees are able, under then-existing law, to make their own six percent (6%) contributions to their PERS account or the Individual Account Program account, as applicable, such employees' contributions shall be treated as "pre-tax" contributions pursuant to Internal Revenue Code, Section 414(h)(2).

## **ARTICLE 17 – INSURANCE BENEFITS**

### Section 1.

An employer contribution will be made for each eligible employee who has at least eighty (80) paid regular hours in the month.

The contribution for eligible participating part time employees with eighty (80) or more hours paid time for the month will be prorated based on the ratio of paid regular hours to full time hours to the nearest full percent.

Effective January 1, 2007 through December 31, 2008, the Employer shall make a contribution sufficient to cover the premium costs for the PEBB health, dental and basic life benefits chosen by each eligible full-time employee who has at least eighty (80) paid regular hours in a month.

For plan year January 1, 2009 through December 31, 2009, the Employer will increase its monthly contributions by up to twelve percent (12%) of the actual monthly composite premium resulting for plan year 2008. Should rates for 2009 exceed the Employer contribution, the parties shall jointly petition the Public Employees Benefit Board to use reserve funding to support any premium increase above twelve percent (12%). In the event the premium increase in excess of twelve percent (12%) is not covered by PEBB reserves, the Employer will provide written notice to the Association of the anticipated

increases. The Association will then provide the Employer written notice which one of the following two options to implement:

Option #1: The three and two tenths percent (3.2%) salary schedule adjustment scheduled for November 1, 2008, shall be reduced by one quarter percent (0.25%) for each one percent (1%) increase in premiums over twelve percent (12%).

Option #2: The three and two tenths percent (3.2%) salary schedule adjustment scheduled for November 1, 2008, shall be delayed by a period of months sufficient to cover the unanticipated increase.

### Section 2.

The parties may also jointly petition the PEBB to continue to do as follows: Employees who live in counties where the PEBB considers there to be an insufficient number of preferred primary care providers within the PPO network will receive the same level of benefits when they use a non-preferred primary care provider as they would using a preferred primary care provider.

### Section 3.

Pursuant to ORS 243.025, each eligible employee shall be issued a certificate of insurance in the face amount of \$10,000.00.

## **ARTICLE 18 – EMPLOYEE ASSISTANCE PROGRAM**

### Section 1.

Employees shall be entitled to participate in the Department Employee Assistance Program (EAP) as long as available and may use any accrued leave with pay for such participation. When an employee has exhausted all accrued leave with pay, leave without pay may be approved at the discretion of the Attorney General or designee.

### Section 2.

Upon CIA written request to Administrative Services, the Department shall provide the CIA with statistical information provided to management concerning the Department EAP.

## **ARTICLE 19 – WORKING OUT OF CLASSIFICATION**

### Section 1.

Employees who have been assigned in writing to perform the duties of a position at a higher level classification for more than five (5) consecutive work days or longer, shall be entitled to receive work out-of-classification pay.

Section 2.

Employees shall be paid five percent (5%) above their current base rate of pay or the first (1<sup>st</sup>) step of the higher salary range, whichever is greater, for the full period of the assignment.

**ARTICLE 20 – TRAVEL, MEALS, LODGING, MILEAGE  
AND MOVING EXPENSE REIMBURSEMENT**

Section 1. Meals/Lodging/Mileage.

Reimbursements and procedures will be in accordance with Oregon Accounting Manual, Policy No. 40.10.00.PO, and its successors. Changes in this policy will be automatically incorporated into this contract article.

Section 2. Credit Cards and Travel Advances.

Reimbursements and procedures will be in accordance with Oregon Accounting Manual, Policy No. 40.20.00.PO, and its successors. Changes in this policy will be automatically incorporated into this contract article.

Section 3. Reimbursement.

All reimbursable out-of-pocket expenses incurred by employees shall be paid by the Department within fifteen (15) calendar days from submission of a completed travel expense claim form, including required documentation, to the employee's supervisor.

**ARTICLE 21 – CALL BACK**

Section 1.

Call back is an occasion where an employee has been released from duty and is called back prior to his/her normal starting time.

Section 2.

An employee who is called back to work outside his/her scheduled work hours shall be paid a minimum of the equivalent of three (3) hours pay at the overtime rate of pay at time and one-half (1 ½) computed from when the employee actually begins work. Except for instances where an employee is required to travel directly from home to a worksite different from his/her official worksite, travel time is not included in the call back. After three (3) hours of work, in each call back situation, the employee shall be compensated at the appropriate rate of pay for time worked. For the purposes of determining the accumulation of hours, call back time will be computed at a rate depending on where within the work week the call back hours occur.

## **ARTICLE 22 - PERSONAL LEAVE**

### **Section 1.**

All employees after completion of six (6) full calendar months of service shall be entitled to receive personal leave days in the following manner:

a. All full-time employees shall be entitled to twenty-four (24) hours of personal leave with pay each fiscal year.

b. Part-time employees shall be granted such leave in a prorated amount of twenty-four (24) hours based on the same percentage or fraction of month they are hired to work, or as subsequently formally modified, provided it is anticipated that they will work 1,040 hours during the fiscal year.

### **Section 2.**

Should any employee fail to work 1,040 hours for the fiscal year, the value of personal leave time used may be recovered from the employee.

### **Section 3.**

Personal leave shall not be cumulative from year to year, nor is any unused leave compensable in any other manner.

### **Section 4.**

Such leave may be used by an employee for any purpose he/she desires and may be taken at times mutually agreeable to the Department and the employee.

## **ARTICLE 23 – SICK LEAVE**

### **Section 1. Eligibility For and Use of Sick Leave.**

a. An employee, upon initial appointment to state service, is eligible to receive and use an advance of ninety-six (96) hours of accrual. Otherwise, an employee may use accrued sick leave with pay on or after the first (1<sup>st</sup>) of the month following the month of accrual. The accrual may be used for personal or a family member's illness, medical or dental care, injury, or death or any period of absence from employment qualifying as Family or Medical Leave under HRSD Policy 60.000.15, in effect November 8, 1996.

b. If the absence from employment is qualifying under Family and Medical Leave Policy 60.000.15, "family member" is defined in the applicable leave law. Otherwise, "family member" is defined as spouse and parents thereof; children, including adopted children, and spouses thereof; parents; brothers and sisters and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

c. Certification of an attending physician or practitioner may be required by the Department. In instances where the Department requires certification by a physician or practitioner of the Department's choosing, the Department shall pay any out-of-pocket costs incurred by the employee.

Section 2. Accrual Rate.

- a. A full-time employee shall accrue eight (8) hours of sick leave per month.
- b. A full-time employee on leave without pay or a part-time employee shall accrue sick leave on a pro rata basis.
- c. Actual time in paid status, except for educational leave, shall be included in determining the pro rata accrual of sick leave each month.

Section 3. Transfer of Sick Leave Hours.

a. When an employee transfers to another position in state service not covered by this Agreement, the employee's unused sick leave accrual shall transfer to the gaining agency if allowed by that agency's applicable rules or Collective Bargaining Agreement.

b. When an employee transfers to a position covered by this Agreement from a position in state service not covered by this Agreement, the employee's unused sick leave accrual shall transfer to the Department.

c. If the employee came from another public employer within the State of Oregon because its functions were assumed by the Department, the Department, upon appointing the employee without a break of more than fifteen (15) calendar days, shall accept the amount of unused sick leave accrued during the employee's tenure with the public employer as long as the public employer's accrual rate does not exceed the accrual rate of eight (8) hours per month. If the public employer's accrual rate exceeds eight (8) hours per month, the following formulas shall apply:

$$\begin{array}{rcl}
 \frac{8 \text{ Hours}}{\text{Previous}} & \times & \text{Sick} \\
 \text{Accrual Rate} & \text{Leave} & \text{Balance} \\
 & \text{at} & \\
 & \text{Previous} & \text{Leave} \\
 & \text{Employer} & \text{Assumable} \\
 & & = \\
 & & \text{Maximum} \\
 & & \text{Sick}
 \end{array}$$

Section 4. Sick Leave Upon Separation.

No compensation for unused sick leave hours shall be allowed upon separation except as provided in the applicable provisions of the Public Employees Retirement Act. Upon separation, if an employee has used sick leave in excess of the amount accrued, the equivalent dollar amount will be deducted from the final paycheck.

#### Section 5. Restoration of Sick Leave Upon Rehire.

An employee who separates from state service and returns within two (2) years shall have unused sick leave hours accrued during previous employment restored.

#### Section 6. Workers' Compensation Supplement

An employee who has sustained an injury compensable under workers' compensation law may elect to supplement workers' compensation payments with accrued paid leave, beginning with sick leave and then other paid leave in any sequence, to cover the difference between the workers' compensation payments and the employee's regular salary rate. Once elected, however, the employee must continue to utilize accrued leave by category until such supplement is no longer required or all paid leave has been exhausted.

Sick leave without pay may be granted when an employee chooses not to supplement with accrued paid leave, or in instances where all paid leave has been exhausted.

#### Section 7. Sick Leave Acquired by Donated Vacation Leave.

The Department will establish and administer a donated leave program that:

- a. Allows any employee who, as a result of extended or catastrophic illness and/or injury to the employee or family member, has exhausted all accumulated leave (sick, vacation, compensatory and personal) and is not receiving workers' compensation benefits or PERS retirement benefits to receive donated leave;
- b. Allows an employee, within the same agency, to voluntarily donate vacation leave in increments of one (1) hour or more to an eligible Department employee's sick leave account, based on the conversion of the donor's salary rate to sick leave hours at the donee's salary rate;
- c. Allows an eligible donee employee to receive up to a maximum of 480 converted hours (60 days) of donated leave per calendar year;
- d. Prohibits the donor from recovering any unused hours from the donee's sick leave account;
- e. Requires documentation, including the donor's signature, and verification of need;
- f. Allows exceptions to the above provisions by approval of the Attorney General or designee.

## **ARTICLE 24 - LEAVE OF ABSENCE WITH PAY**

The Employer recognizes that certain employee leaves are either directly or indirectly beneficial to the State and therefore qualify as paid leave. Employees shall receive the following paid leave:

### **Section 1. Military Training Leave With Pay.**

An employee shall be granted military training leave with pay, identified by a copy of the military training orders furnished by the employee, for a period not exceeding fifteen (15) calendar days or eleven (11) work days in any federal training year if the employee:

- a. Has been employed with the State of Oregon or its counties, municipalities or other political subdivisions for six (6) months or more immediately preceding application for military leave, and
- b. Is a member of the National Guard or reserve component of the United States Armed Forces.

### **Section 2. World, Pan American, or Olympic Event Training Leave With Pay.**

A leave-with-pay loan to participate in official training camps and competitions for World, Pan American, or Olympic events may be granted not to exceed ninety (90) calendar days per calendar year. The conditions under which such a loan may be granted shall be in accordance with ORS 243.325-243.335.

### **Section 3. Jury Service Leave with Pay.**

An employee shall be granted jury leave upon request. The employee may keep any money paid by the court for jury service.

### **Section 4. Court, Legislative Committee, or Quasi-Judicial Body Witness Leave of Absence With Pay.**

An employee shall be granted court, legislative committee, or quasi-judicial body witness leave with pay if such appearance was required by subpoena or other direction by proper authority for matters other than officially assigned duties. The employee may keep any money paid. Money received while performing officially assigned duties shall be Department property unless the appearance was required during off-duty hours.

### **Section 5. Search and Rescue Operation Leave With Pay.**

Leave with pay not to exceed five (5) work days for each operation shall be granted if requested by a law enforcement agency; the Department of Transportation, Aeronautics Section manager; the United States Forest Service; or any local civil defense organization.

Section 6. Job Interview and Testing Leave With Pay.

An employee is entitled to up to two (2) hours leave with pay per instance to take examinations for other state positions or to interview for other state positions, including interviews for transfers, promotions, or voluntary demotions. Time in excess of two (2) hours may be charged to personal leave or to vacation time, or to unpaid leave if no paid leave is available to the employee.

Section 7. Preretirement Counseling Leave With Pay.

Leave with pay for an employee to investigate and assemble a retirement program may be granted by the appointing authority, for a period up to three and one-half (3 ½) days of leave within three (3) years of the chosen retirement date.

Section 8. Red Cross Disaster Relief Services Leave With Pay.

Leave with pay not to exceed fifteen (15) work days may be granted to an employee to participate in disaster relief services in Oregon. To qualify for such leave, the employee shall be a certified disaster services volunteer of the American Red Cross.

Section 9. Education Leave With Pay.

The Attorney General may grant education leave with pay for up to one (1) year for education or research projects directly related to the employee's assignment with the Department.

**ARTICLE 25 – LEAVE OF ABSENCE WITHOUT PAY**

Section 1.

An employee shall be entitled to military leave without pay as required by Federal and State law.

Section 2.

An employee may request and shall be granted leave without pay for the time required to make an appearance as a plaintiff or defendant in a civil or criminal court proceeding that is not connected with the employee's officially assigned duties.

Section 3.

At the discretion of the Attorney General, an employee may be granted temporary leave of absence without pay for any purpose approved by the Attorney General or designee.

Section 4.

An employee who has worked for the Department for more than five (5) years may, with the approval of the Department, take up to one (1) year of unpaid leave on sabbatical

for any purpose, and upon return shall be entitled to return to the Department in the same classification at the current salary rate for such classification. This provision shall not be construed to prevent the Department from granting leave without pay before five (5) years of Department service. An unpaid leave of absence will not be granted to any employee who is accepting some other position in State government; who is leaving State employment to enter other outside employment; or who does not intend to, nor can reasonably be expected to, return to State employment on or before the expiration of the unpaid leave of absence.

**Section 5.**

An employee shall use appropriate accrued leave before using leave without pay except when:

- a. Prohibited by Federal or State law; or
- b. This requirement is waived by the Attorney General or designee, upon specific request of the employee, due to extenuating or unusual circumstances related to the nature of the approved leave purpose.

**Section 6.**

During periods of unpaid leaves an employee shall:

- a. Receive such benefits as required by Federal and State laws; and
- b. Not accrue sick leave or vacation leave.

**Section 7.**

Leaves of absence up to one (1) year shall not be considered a break in service.

**ARTICLE 26 – PARENTAL LEAVE**

A parent shall be granted leave in accordance with State and Federal laws.

**ARTICLE 27 – VACATION LEAVE**

**Section 1. Vacation Leave Accrual.**

- a. Vacation leave shall accrue as follows:

<u>Months Worked</u>	<u>Accrual Rate</u>
First (1 <sup>st</sup> ) month through 60 <sup>th</sup> month	10.00 hours per month
61 <sup>st</sup> month through 120 <sup>th</sup> month	11.34 hours per month

121 <sup>st</sup> month through 180 <sup>th</sup> month	13.34 hours per month
181 <sup>st</sup> month through 240 <sup>th</sup> month	15.34 hours per month
After 240 <sup>th</sup> month	17.34 hours per month

b. An employee, upon initial appointment to state service, is eligible to receive and use an advance of forty (40) hours of accrual.

c. An employee may take accrued vacation leave on or after the first of the month following the month in which it is accrued, except as and may be further allowed in subsection b above.

d. A part-time employee, a full-time employee on leave without pay, or an employee beginning work after the first (1<sup>st</sup>) working day of the month shall accrue vacation leave on a pro rata basis.

Section 2. Vacation Leave Application.

An employee shall be eligible to use accrued vacation leave for any period of absence from employment qualifying as family or medical leave under HRSD Policy No. 60.000.15, Family and Medical Leave.

Section 3. Determination of Service for Pro Rata Accrual.

Actual time in paid status, except for educational leave, shall be included in determining the pro rata accrual of vacation each month.

Section 4. Determination of Service for Recognized Service Date.

a. Each employee shall be assigned a recognized service date representing length of service for vacation accrual rate adjusted for breaks in service.

b. Time spent in the exempt, unclassified, academic unclassified, classified, and management service and time spent on paid leave or on Peace Corps, military, educational, mobility, or job incurred time loss or other qualifying family and medical leaves covered by Policy 60.000.15 without pay shall be considered as time in the state service in determining the recognized service date.

Section 5. Restoration of Vacation Accrual Rate Upon Rehire.

An employee who separates from state service and returns within two (2) years shall be given credit toward additional vacation accrual rates for service prior to separation.

Section 6. Accumulation of Vacation Leave.

An employee who has accrued the maximum three hundred fifty (350) vacation leave hours authorized may request use of vacation leave to prevent its loss. An appointing

authority, upon determining that granting of vacation leave is not appropriate, may make cash payment for not more than forty (40) hours. Vacation leave for which payment is made shall be cancelled.

#### Section 7. Use of Leave.

Vacation leave may be utilized with prior approval of the designated supervisor at a time mutually acceptable to the Department and the employee and consistent with the operating requirements of the Department, except as otherwise provided by HRSD Policy No. 60.000.15, Family and Medical Leave.

#### Section 8. Retention of Vacation Leave Hours Upon Transfer.

Whenever an employee accepts an appointment to a position not covered by this Agreement, any portion of the employee's accrued vacation leave hours not assumed by the gaining agency shall be compensated to the employee in cash by the Department to a maximum of two hundred fifty (250) hours.

#### Section 9. Vacation Pay Upon Separation.

An employee who separates after six (6) months of state service shall be paid for not more than 250 unused vacation leave hours. Any hours beyond the 250 hour cap not paid under Section 6 shall be lost. Any employee on a military leave of absence without pay may, at the option of the employee, either be paid for unused vacation leave hours or retain them on the agency leave records.

Upon separation, if an employee has used vacation leave in excess of the amount accrued, the equivalent dollar amount will be deducted from the final paycheck.

#### Section 10. Donation of Vacation Leave.

An employee, having a minimum of six (6) months of state service, may voluntarily donate vacation leave, in increments of one (1) hour or more, to an individual employee for whom a donated leave bank has been established, in accordance with Article 23 – Sick Leave.

### **ARTICLE 28 – HOLIDAYS**

Employees shall receive the following legal compensable holidays:

#### Section 1. Legal Holidays.

The following are legal compensable holidays:

- a. New Year's day on January 1;
- b. Martin Luther King's Birthday on the third Monday in January;
- c. President's Day on the third Monday in February;
- d. Memorial Day on the last Monday in May;

- e. Independence Day on July 4;
- f. Labor Day on the first Monday in September;
- g. Veterans Day on November 11;
- h. Thanksgiving Day on the fourth Thursday in November;
- i. Christmas Day on December 25;
- j. Every day appointed by the Governor as a holiday;
- k. Every day appointed by the President of the United States as a day of mourning, rejoicing, or other special observance only when the Governor also appoints that day as a holiday.

#### Section 2. Application of Holiday Pay.

a. A full-time employee shall be granted eight (8) hours time off with pay for each legal holiday. A full-time employee on leave without pay shall be granted time off with pay on a pro-rata basis for each legal holiday.

b. A part-time employee shall be granted time off with pay on a pro-rata basis for each legal holiday.

#### Section 3.

A holiday which occurs during vacation or sick leave shall not be charged against such leave.

#### Section 4.

Whenever a holiday falls on Sunday, the following Monday shall be recognized as a holiday, and whenever a holiday falls on Saturday, the preceding Friday shall be recognized as a holiday. However, a day appointed by the Governor as a holiday or a day appointed by the President of the United States as a day of mourning, rejoicing or other special observance, which day the Governor also appoints as a holiday, shall be observed on the day appointed.

#### Section 5.

When a designated holiday falls on an employee's regularly scheduled day off, other than Saturday or Sunday, the holiday shall be subsequently rescheduled, if possible, to another day within the same pay period but no later than during the following pay period.

#### Section 6.

When a holiday occurs on what would normally be the first (1<sup>st</sup>) or last workday of the pay period, an employee who is hired on the first (1<sup>st</sup>) workday or who separates on the last workday shall receive pay for the holiday.

Section 7.

In addition to the holidays specified in this Article, full-time employees shall receive eight (8) hours of paid leave. Part-time employees shall receive a prorated share of eight (8) hours of paid leave. Paid leave granted in this section shall be accrued by all employees employed as of the day before Thanksgiving or Christmas of each year. Employees who are employed as of the day before Thanksgiving may request the option of using this paid leave on the workday before or after Thanksgiving, Christmas, or New Year's Day. Employees who become employed after Thanksgiving but before Christmas may request the option of using this paid leave on the workday before or after Christmas or the workday before or after New Year's Day. If the employee chooses not to take one of the aforementioned days, another day may be mutually agreed upon, provided such time is taken off by January 31<sup>st</sup> of the following year.

Section 8.

An employee required to work on a holiday shall be compensated at time and one-half (1 ½) in addition to pay for the holiday. The Department shall choose to pay for this work in cash or compensatory time. Compensatory time may be saved.

**ARTICLE 29 – LABOR/MANAGEMENT COMMITTEE**

Section 1.

To facilitate communication between the parties, a joint labor/management committee shall be established.

Section 2.

The Department committee shall be composed of two (2) employee members appointed by the CIA and two (2) members of management, unless mutually agreed otherwise.

Section 3.

The committee shall meet when necessary, but not more than three (3) hours per meeting or more than once each calendar quarter. The first meeting shall be ninety (90) days after the parties have executed a labor Agreement. Subsequent meetings shall be established by mutual agreement of the parties to this Agreement.

Section 4.

The committee shall prepare a written agenda ten (10) days in advance of any scheduled meeting.

Section 5.

Department employees appointed to the committee shall be paid during time spent in committee meetings. Approved time spent in meetings shall not be charged to leave credits.

Section 6.

The committee shall meet and confer on issues relating to the operations of the Department. The committee shall not have the authority to negotiate on mandatory subjects of bargaining. The committee shall have no power to contravene any provision of this Agreement or to enter into any agreements binding on the parties to this Agreement.

**ARTICLE 30 – SAFETY AND HEALTH**

Section 1.

The Department will abide by standards of safety and health in accordance with the Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991).

Section 2.

The Department shall comply with the provisions of OAR 437-127, Medical Services and First Aid.

Section 3.

If an employee claims that an assigned job, vehicle or equipment is unsafe under Oregon Safe Employment Act standards and for that reason refuses to do the job or use the vehicle or equipment, the employee shall immediately give specific reason(s) in writing to his/her immediate supervisor. The immediate supervisor will request an immediate determination by the Department safety officer or designee, or, if none is available, by OR-OSHA of the Department of Consumer and Business Services as to whether the job, vehicle or equipment is safe or unsafe.

Section 4.

Pending determination provided for in Section 3, the employee shall be given another vehicle or equipment or other work. If no work is available the employee shall be sent home. Time lost by the employee as a result of refusal to perform work on the grounds that it is unsafe under Oregon Safe Employment Act standards shall be paid by the Department if the employee's claim is upheld by the Department safety officer or designee or the Department of Consumer and Business Services.

## **ARTICLE 31 – INCLEMENT CONDITIONS**

### **Section 1.**

When in the judgment of the Department, weather conditions require the closure of the work location after an employee reports to work, the employee shall not be required to use accrued leave for the remainder of the work day.

### **Section 2.**

The Department may notify employees not to report to work because of inclement weather or hazardous conditions. In such cases the Department will use radio or television announcements to attempt to notify employees of the closure prior to their leaving home. The Department shall notify all employees of its radio or television selection by posting that notice on Department bulletin boards.

### **Section 3.**

If the Department gives notice of closure of a work location before the beginning of a work day and an employee is not otherwise approved to be on pre-scheduled leave or authorized to report to a different work location, the employee may elect to use accrued leave or leave without pay for the day of the closure.

### **Section 4.**

If local conditions in the vicinity of the employee's residence make travel to the work location hazardous, the employee shall notify the employee's supervisor that the employee is unable to report or will be late in reporting for work. The employee may elect to use accrued leave or leave without pay during the period that the employee's work is curtailed due to the hazardous conditions, unless the employee arranges with the employee's immediate supervisor to perform his or her work assignment in another way, such as working at home, working at another state office or performing work at another time.

## **ARTICLE 32 – GENERAL PROVISIONS**

### **Section 1. Cellular Phones.**

If the Department allows CIA members to use cellular phones in the performance of their job-related duties, the Department shall either provide the cellular phone or reimburse the reasonable and necessary costs associated with job-related personal cellular phone usage.

### **Section 2. Safety Equipment.**

The Department shall provide each CIA member with: one (1) firearm, one (1) holster to carry the employee's firearm, three (3) ammunition clips, one (1) set of handcuffs, a

Mag flashlight, a pager (employee option), an appropriate raid jacket and badge. With a reasonable amount of time, law enforcement lights (front and rear) and sirens will be installed on all newly assigned undercover vehicles. In addition, the Department will provide each employee with a ballistic protective vest (Threat level IIIA) which will be replaced according to the manufacturer's recommended replacement schedules. The Department further agrees to secure, on a temporary basis, any web gear required for DPSST academy training.

### Section 3. Professional Memberships.

With mutual agreement between the employee and the Chief Investigator, the Department shall pay an amount to cover membership in up to two (2) job-related professional organizations.

## **ARTICLE 33 – NO STRIKE OR LOCKOUT**

### Section 1.

The Department agrees that during the term of this Agreement, the Department shall not cause or permit any lockout of employees from their work.

### Section 2.

During the term of this Agreement, the CIA shall neither cause nor counsel the members of the bargaining unit to strike, walk out, slowdown, or commit other acts of work stoppage.

## **ARTICLE 34 – COMPLETE AGREEMENT/PAST PRACTICES**

### Section 1. Complete Agreement.

Pursuant to their statutory obligations to bargain in good faith, the Employer and the CIA have met in full and free discussion concerning matters in "employment relations" as defined by ORS 243.650(7). This Agreement incorporates the sole and complete agreement between the Employer and the CIA resulting from these negotiations. The

CIA agrees that the Employer has no further obligation during the term of this Agreement to bargain wages, hours, or working conditions except as specified below.

### Section 2. Past Practices.

The parties recognize the Employer's full right to direct the work force and to issue rules, regulations and procedures and that these rights are diminished only by the law and this Agreement, including interpretative decisions which may evolve pursuant to the proper exercise of authority given by the law or this Agreement.

a. The Employer is not limited, confined, or restricted by past practice, rule, custom, or regulation in making changes in policies, procedures, rules, and regulations to carry out the mission of the Department. The Department will make every effort to provide the CIA President with changes in Department of Administrative Services, Department and Criminal Justice Division policies, procedures, rules and regulations.

b. However, this Article shall not be interpreted to restrict the CIA's right to bargain the impact of mandatory subjects of bargaining or the impact of permissive subjects of bargaining where the Employer is compelled to negotiate over the matter by State law, or by law, bargain the decision. In the case of disagreement between the parties, the Employment Relations Board shall make the decision under this sub-section as to whether the Employer is compelled to negotiate under State law.

### **ARTICLE 35 – SEVERABILITY**

In the event that any Provision of this Agreement is at any time declared invalid by a court of competent jurisdiction, declared invalid by final Employment Relations Board (ERB) order, made illegal through enactment of Federal or State law or through government regulations having the full force and effect of law, such action shall not invalidate the entire Agreement, it being the express intent of the Parties hereto that all other Provisions not invalidated shall remain in full force and effect. The invalidated Provision shall be subject to renegotiation upon request by either Party. Such renegotiation shall be conducted in accordance with ORS 243.650 *et. seq.*

### **ARTICLE 36 – LIMITED DURATION EMPLOYEES**

#### **Section 1.**

Any limited duration employee hired to perform CIA bargaining unit work will be covered by the Collective Bargaining Agreement.

#### **Section 2.**

Whenever a limited duration assignment ends, any resulting layoff will be on the basis of inverse seniority from the classification affected.

### **ARTICLE 37 – RECOURPMENT OF OVERPAYMENTS**

#### **Section 1.**

a. The Department will provide written notice to the employee and the CIA of an overpayment to the employee within ten (10) calendar days from the date of discovery. This notice shall include the specifics of the overpayment;

b. Overpayments of \$150 or less of an employee's monthly adjusted base salary will be recovered in one (1) lump sum;

c. For overpayments of more than \$150, the employee and the Department

shall make written arrangements for the return of the overpayment in monthly amounts not to exceed \$150 of the employee's monthly adjusted base salary through automatic payroll deduction;

d. Nothing in this Article shall preclude a written agreement between the employee and the department for immediate and full restitution of the overpayment, so long as the employee agrees in writing to such restitution;

e. If an employee leaves the Department prior to full recovery of the overpayment, the balance owing shall be deducted from the employee's final paycheck.

f. As soon as practicable prior to the initiation of automatic payroll deductions related to recoupment, a copy of any written agreement shall be provided to the employee and the CIA.

## Section 2.

This Article does not waive the Department's right to pursue other legal procedures and processes to recoup an overpayment made to an employee.

## **ARTICLE 38 – LEGAL FEES**

### Section 1.

The State agrees to reimburse an Association member for the reasonable, usual and customary legal fees charged by an attorney as a direct result of criminal charges or a grand jury appearance or an inquest appearance against the Association member arising out of the Association member's use of force in the proper performance of his or her duty as an employee for the State of Oregon. The State's obligation of reimbursement is subject to the following:

After the initial meeting between the Association member and the attorney, the Association shall arrange for the attorney to provide the State, at no cost to the State, a preliminary estimate of the anticipated legal fees, costs and expenses. This preliminary estimate shall be directed to the Chief Counsel for the Criminal Justice Division, the Deputy Attorney General, and the Association.

Section 2. Before becoming obligated under this Article, the State shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of the time spent and a brief description of the purpose of such time. If the State in its discretion feels the charges exceed the reasonable, usual and customary fees normally charged, the parties shall submit the matter to the Oregon State Bar (OSB) Fee Arbitration Program for resolution. The decision of the OSB fee arbitrator or arbitration panel shall be final and binding as to the State's obligation under this Article. Under no circumstances shall the provisions of this Article give rise to a claim of any sort against the State by the attorney retained or selected by the Association member.

### Section 3.

Reimbursement will not be made in those instances where:

- a. The Association member is convicted by verdict or plea, or pleads no contest to any criminal charges arising out of the use of force incident; or
- b. The Department sustains any disciplinary charge(s) on the basis of the Association member's use of force which formed any part of the basis for the possible criminal liability and the Department's disciplinary action is upheld in all or part on grievance appeal, if any, of the discipline;
- c. The State shall have no obligation to reimburse an Association member, the Association or counsel for the Association for costs or legal fees in any instance where the Association member or the Association elect to have counsel for the Association represent the Association member involved in the incident at any stage of the criminal proceeding, including, but not limited to, any grand jury proceeding.

### Section 4.

Any reimbursement required by the State under this article shall be made only at the conclusion of all criminal and disciplinary proceedings against the Association member relating to or arising out of the use of force incident and are subject to the following monetary maximums:

- Legal fees relating to a grand jury investigation and/or appearance: \$5,000.
- Legal fees relating to defending criminal charges at trial, or inquest: \$10,000

## **ARTICLE 39 – TERM OF AGREEMENT**

### Section 1.

This Agreement shall be effective as of the date of signing, except where stated specifically otherwise in the Agreement, and shall remain in full force and effect until June 30, 2009.

### Section 2. Successor Negotiations.

If either the State of Oregon or the CIA desire to modify the Agreement, the requesting party shall notify the other party, in writing, no less than one hundred fifty (150) days prior to termination of this Agreement. The parties shall commence negotiations for a successor Agreement no earlier than November 1, 2008, and no later than February 1, 2009.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2007, at Salem, Oregon.

FOR THE STATE OF OREGON

FOR THE CRIMINAL INVESTIGATORS  
ASSOCIATION

\_\_\_\_\_  
Lindsay Ball, Director  
Department of Administrative Services

\_\_\_\_\_  
Todd Gray, President  
CIA

\_\_\_\_\_  
Susan Wilson, Administrator  
Human Resource Services Division

\_\_\_\_\_  
Craig Cowan, State Labor Relations Mgr.  
Human Resource Services Division

\_\_\_\_\_  
Cathy Schuh, Bargaining Consultant  
Department of Justice

\_\_\_\_\_  
Hardy Myers, Attorney General  
Department of Justice

\_\_\_\_\_  
Leslie Kolisch, Assoc. Atty. General  
Department of Justice

\_\_\_\_\_  
Steve Briggs, Chief Counsel  
Criminal Justice Division

**APPENDIX A**

**CIA Salary Rates\***

3% COLA

7-1-07	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
SR 30	4145	4350	4571	4808	5048	5298	5561	5843	6136

New Step

1-1-08	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
SR 30	4350	4571	4808	5048	5298	5561	5843	6136	6444

3.2% COLA

11-1-08	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
SR 30	4489	4717	4962	5210	5468	5739	6030	6332	6650

\*Rates are estimates. Actual rates may vary by \$1 or \$2 due to rounding.