

MEMORANDUM OF UNDERSTANDING

2009 - 2012

COUNTY OF ORANGE

AND

ALLIANCE OF ORANGE COUNTY WORKERS (AOCW)

FOR THE

OPERATIONS AND SERVICE MAINTENANCE UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Alliance of Orange County Workers (AOCW) as the Exclusively Recognized Employee Organization for the Operations and Service Maintenance Unit for the period beginning June 19, 2009, through June 14, 2012. Unless otherwise indicated herein, all provisions shall become effective June 19, 2009.

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DEFINITIONS

The following terms as used in this Memorandum of Understanding shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

BOARD shall mean Board of Supervisors of the County of Orange.

CONTINUOUS SERVICE shall mean employment in a regular position which has not been interrupted by resignation, discharge or retirement. Official Leaves of Absence shall not be credited toward continuous service.

COUNTY shall mean the County of Orange and special districts governed by the Board of Supervisors.

EMERGENCY means an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, a pressing necessity.

EMPLOYEE shall mean a person employed by the County and covered by terms of this Memorandum of Understanding, except where the natural construction of this Memorandum of Understanding indicates otherwise.

EXTRA HELP EMPLOYEE shall mean an employee employed in an extra help position. An extra help employee serves at the pleasure of the County in an extra help position.

EXTRA HELP POSITION shall mean a position which is intended to be occupied on less than a year-round basis including, but not limited to, the following: to cover seasonal peak workloads; emergency extra workloads of limited duration; necessary vacation relief, paid sick leave and other situations involving a fluctuating staff. Ordinarily, a full-time extra help position will not be authorized for a period exceeding six (6) months. In unusual circumstances, and at the discretion of the County Executive Officer and the Human Resources Director, a full-time extra help position may be authorized for a period longer than six (6) months, provided such period shall not exceed one (1) year.

FULL-TIME EMPLOYEE shall mean an employee employed in one (1) or more regular or limited-term positions whose normally assigned work hours equal those of a full workweek or work period as described hereinafter.

HUMAN RESOURCES DIRECTOR shall mean the Human Resources Director or his or her designee.

LIMITED-TERM EMPLOYEE shall mean an employee employed in a limited-term position except where a regular position is converted to a limited-term position, the incumbent shall retain his or her former status. As an exception to this definition, a limited-term employee may also be used to fill a regular position when the incumbent employee is on Official Leave of Absence.

LIMITED-TERM POSITION shall mean a position which the County has determined has no anticipated long-range funding or has uncertain future funding.

PART-TIME EMPLOYEE shall mean an employee employed in one or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL EMERGENCY shall mean an event or circumstance of a serious nature which is beyond an employee's control and which necessitates the employee's absence from County duty, including, but not limited to, those events and circumstances which require the employee's prompt attention to avoid possible financial loss to, or damage to the health of, either the employee or a member of his or her household.

PRACTICABLE means economically or operationally feasible; reasonably able to accomplish.

PROBATIONARY EMPLOYEE shall mean an employee who is serving a probation period and is employed in a regular or limited-term position.

PROMOTION shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class where the maximum step on the new salary range is at least one full step higher than the maximum step of the old salary range.

REASSIGNMENT shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class on the same salary range or to a class where the maximum step on the new salary range is less than one (1) full step higher or lower than the maximum step of the old salary range.

RECRUITING STEP shall be the first step of the salary range allocated to a class unless otherwise authorized by the Board or the Human Resources Director.

REDUCTION shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class where the maximum step of the new salary range is at least one (1) full step lower than the maximum step of the old salary range.

REGULAR EMPLOYEE shall mean an employee who is not on probation and is employed in a regular or limited-term position.

REGULAR POSITION shall mean a position established on a permanent year-round basis requiring work on a regular schedule unless otherwise authorized by minute order of the Board.

SENIORITY shall mean total continuous full-time equivalent service as a regular employee.

Y-RATE shall mean a pay rate outside of the assigned salary range of a class.

ARTICLE I WORKWEEK, OVERTIME AND PREMIUM PAY

Section 1. Workweek

- A. The official workweek or work period for County employees shall be as follows:

Except as otherwise provided below, the official workweek for full-time employees shall be forty (40) hours and shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight. Work ordered and performed in excess of forty (40) hours actually worked in a workweek shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek in accordance with an emergency declared by the Board of Supervisors shall be overtime. Unless specifically identified as paid time, meal breaks shall be considered unpaid and unworked time.

- B. The County agrees to give employees a seven (7) calendar day advance notice of a shift change whenever practicable.
- C. No employee shall be permitted to work more than sixteen (16) consecutive hours except in an emergency situation.
- D. The County shall discuss with the Union any proposed changes in existing scheduled hours of work before such changes are put into effect. Whenever practicable, the County shall provide written notification of such proposed changes to the Union at least fourteen (14) calendar days before such changes are put into effect.
- E. When a new shift is created, the County shall first seek volunteers to fill it. If there are more volunteers than necessary, the new shift shall be filled by seniority. Volunteers may be refused if their most recent evaluation is rated "does not meet performance objectives." If there are not enough volunteers, the remaining positions will be filled in reverse order of seniority. The parties agree that when a compelling need exists, e.g. specialized knowledge, specialized skill, emergency conditions, undesirable reporting relationships, the County may designate employees to be assigned to the new shift.
- F. Except as otherwise provided, no employee may be employed in one (1) or more positions, full or part-time, more than the total number of hours for the employee's work period as defined in A., above, except on authorized overtime.
- G. This Section shall not prevent an employee or group of employees from requesting a modified work schedule. Such requests may be implemented by an agency/department.

1. Upon written request by the Union, the County agrees to study the feasibility of establishing work schedules consisting of either:
 - a. four (4) ten (10) hour workdays per week;
 - b. four (4) nine (9) hour workdays each week with an additional eight (8) hour workday on alternate weeks; or
 - c. flex time.
 2. The County shall initiate such studies within thirty (30) days and provide a written response within ninety (90) days.
 3. The Union agrees not to request more than three (3) such studies concurrently and no more than one (1) concurrently for each agency/department.
 4. The County agrees to discuss with the Union any findings and recommendations prior to reaching a final decision and implementation.
- H. In addition to any other position or positions that are held, an employee may also voluntarily work in a capacity authorized for the Registrar of Voters in the course of an election provided that such election work does not unduly interfere with the employee's regular assignment. Election work shall be compensated at the rate authorized for such work.

Section 2. Overtime

A. Notification of Employees of Work Required Beyond Normal Schedule

If in the judgment of the agency/department, work beyond the normal workday, workweek or work period is required, the agency/department will notify any employee who may be asked to perform such overtime of the apparent need for such overtime as soon as practicable prior to when the work is expected to begin. If this additional work results in hours worked in excess of forty (40) hours in the employee's designated workweek, the employee shall be compensated for the excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime and Call-Back

1. The County will make a reasonable effort to make voluntary overtime and call-back available on an equal basis to employees best qualified to perform the work.
2. The County shall prepare an overtime and call-back list for each class and work location in each agency/department. Separate lists may be prepared as needed for jobs with special requirements not possessed

by all employees in the class. Names shall be placed on the list in order of seniority within occupational series. An updated list will be posted and provided to the Union steward when changes occur.

3. Except in cases of emergencies, offers to work overtime or call-back shall be given in sequence going down the list from the last previous person working overtime/call-back, other than emergency or project starting during an assigned shift, until an employee agrees to work. An employee who declines the overtime/call-back, is not available or cannot be reached at work or at home by phone will be bypassed. When the bottom of the list is reached, overtime/call-back opportunities shall be offered to employees starting at the top of the list. Any employee who is incorrectly passed over for an overtime or call-back opportunity shall be offered the next available opportunity.
4. If every employee on the list declines the overtime/call-back, the County may require employees to perform overtime/call-back in the reverse order of their seniority in the class.
5. If overtime is necessary on a project that started during an assigned shift, the employee(s) working on the project may continue working on the project as an extension of the assigned shift.

C. Payment for Overtime

1. Overtime shall be compensated at one and one-half (1-1/2) times the regular rate.
2. For all regular, limited-term and probationary employees, the employee may receive either payment or compensatory time off for overtime. The County shall have the discretion whether to provide payment or compensatory time off; however, if practicable, the County shall duly consider an employees' preferred form of compensation. Employees may not accumulate in excess of eighty (80) hours of compensatory time. Employees who have accumulated eighty (80) hours of compensatory time shall receive payment for overtime worked.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty (30) hours may be scheduled off for an employee by his or her agency/department; however, consideration shall be given to effectuating the wishes of those employees requesting specific compensatory time off periods.
5. No scheduled compensatory time off will be cancelled except in cases of emergency.

6. In no case may an employee's work schedule be changed during the workweek when the purpose of such change is to avoid overtime compensation.
7. Time worked as overtime shall not be used to earn fringe benefits or to serve out probation or merit increase periods. Compensatory time off may be used as part of the established workweek to earn fringe benefits and to serve out probationary and merit increase periods.
8. An employee separating from the County service shall be paid for accumulated compensatory time in a lump sum payment.

Section 3. Rest Periods and Cleanup Time

- A. Employees shall be allowed rest periods of fifteen (15) minutes during each four (4) consecutive hours of work.

Such rest periods shall be scheduled in accordance with the requirements of the agency/department, but in no case shall rest periods be scheduled within one (1) hour of the beginning or the ending of a work shift or lunch period. The County may designate the location or locations at which rest periods may be taken.

Rest periods shall be considered hours worked and employees may be required to perform duties, if necessary.

- B. Each employee shall, when necessary, be permitted up to fifteen (15) minutes of paid County time at the end of each work shift to perform such activities as personal wash-up, changing clothes, cleaning up a work area, and putting away tools.

C. Lunch Periods

Each employee shall be allowed a meal period of not less than thirty (30) minutes and not more than sixty (60) minutes as determined by the agency/department. Such meal period shall be generally scheduled in the middle of the work shift and shall not be considered hours worked.

D. Emergency Meals During Overtime Shifts

During emergencies which require unusual amounts of overtime, employees who are required to work such excessive overtime shall be provided appropriate meals. Such meals shall either be provided by County contract, such as that provided on a fireline, or the employee shall be authorized a meal ticket. The determination as to how such meals are provided and the amount authorized shall be at the discretion of the agency/department.

Section 4. Premium Pay

A. Night Shift Differential

1. An employee who works an assigned night shift shall, in addition to his or her regular salary, be paid a night shift differential for each hour actually worked on the assigned night shift.
2. For purposes of this Section, night shift shall mean an assigned work shift of seven (7) consecutive hours or more which includes at least four (4) hours of work between the hours of 4 p.m. and 8 a.m. Overtime which is worked as an extension of an assigned day shift shall not qualify an employee for night shift differential.
3. The rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of eighty cents (80¢) per hour and a maximum of one dollar (\$1) per hour.

B. On-Call Pay

1. When a regular, limited-term or probationary employee is assigned on-call duty by the County, the employee shall, whenever practicable, be informed in writing at least five (5) days in advance of the dates and inclusive hours of such assignment; the employee shall be compensated at one-fourth (1/4) of his or her basic hourly rate for the entire period of such assignment.
2. On-call pay shall not apply to extra help employees unless expressly directed in writing to be on-call.

C. Call-Back Pay

1. When an employee returns to work because of an agency/department request made after the employee has completed his or her normal work shift and left the work station, the employee shall be credited with four (4) hours work plus any hours of work in excess of four (4) hours in which the employee is continuously engaged in work for which he or she was called back.
2. On-call duty requires the employee so assigned: (1) to be reachable by telephone or other communications device; (2) be able to report to work in a reasonable time; and (3) to refrain from activities which might impair his or her ability to perform assigned duties.
3. Call-back shall be paid at one and one-half (1-1/2) times the regular rate.

4. There shall not be any duplication or pyramiding of rates paid under this Section.
5. An employee shall be credited with not more than one (1) minimum four (4) hour guarantee for work performed during any four (4) consecutive hour period.
6. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
7. Call-back pay shall apply only when an employee is required to physically return to work (e.g., leave home or another off-duty location) in order to perform required duties.

D. Bilingual Pay

1. Qualified employees who meet the following criteria shall receive an additional sixty (60) cents per hour (approximately one hundred four [104] dollars per month) for all hours actually paid. This will not apply to the class of Interpreter.
 - a. An employee must be assigned by agency/departmental management to speak or translate a language in addition to English. This includes such specialized communication skills as sign language.
 - b. Employees must regularly and frequently speak and/or translate a second language, i.e., once daily.
 - c. To become qualified, employees must be certified as qualified by the Human Resources Director.
2. Bilingual pay shall not apply to workers' compensation supplement pay.
3. An employee in a bilingual assignment may request assignment to a position which does not require bilingual certification. The request shall be made in writing to the agency/department head, who will consider it according to:
 - a. agency/department need;
 - b. availability of a qualified replacement; and
 - c. availability of another suitable assignment for the requesting employee.

E. Firefighting

Any employee, when called back to fight fires at a landfill station, shall receive fifteen (15) dollars per call in addition to call-back pay.

F. Landfill Assignment Pay for Heavy Equipment Mechanic or Equipment Welder

An Equipment Mechanic or Equipment Welder on pay status and assigned to landfill mechanic or welder duty on a regular full-time basis shall receive sixty (60) cents per hour for all hours actually paid.

G. Jail Salary Supplement

A custodial employee who is permanently assigned to perform "pipechasing" work in the Central Jail or Intake Release Center shall, in addition to his or her biweekly salary, be paid an additional fifty (50) cents per hour (approximately eighty-seven [87] dollars per month) for all hours actually paid.

H. Confined Spaces Pay

Effective June 29, 2001, employees who go underground as part of the Confined Spaces Team shall receive one (1) dollar per hour for hours paid, as defined below. Time taken at the confined space worksite to put on safety gear and time spent at the confined space worksite in safety gear in preparation for entering a confined space shall count as time spent actually working in confined spaces.

Confined spaces as used herein, shall be defined consistent with the General Safety Orders, Article 108 of Title 8, California Administrative Code. Examples of confined spaces which may be eligible are: compartments, ducts, sewers, pipelines, vaults and pits.

I. High Lift Pay

Employees who work upon scaffolds or hanging platforms, at or above twenty (20) feet above grade (i.e., swing stages and bosuns's chairs), including work upon a platform while rigging, shall receive a high lift pay differential. The differential will be paid only for those hours actually worked under these conditions at a rate of eighty-five (85) cents per hour, at a minimum of four (4) hours for any day in which qualifying work is performed. Travel time shall not be considered as qualifying for this differential.

J. Watercraft Differential Pay

Employees in positions in the class of Marine Mechanic regularly assigned to work on County watercraft, shall receive a differential of twenty-five (25) cents per hour for each hour actually paid.

K. Commercial Driver's License Pay

Employees in the classification of Equipment Mechanic who possess a valid Class A or B driver's license shall be eligible to receive an additional sixty (60) cents per hour for all hours paid, based on the following criteria:

1. The minimum requirement to receive this pay shall be the possession of a valid Class B driver's license with air brakes endorsement.
2. Agency/Department management will determine the level of license required for a particular assignment, and will also determine which assignment(s) will qualify to receive this pay.
3. Employees who are participants in the Department of Transportation (D.O.T.) Commercial License Program will qualify to receive this pay.

ARTICLE II PAY PRACTICES

Section 1. Compensation for Employees

Employees shall receive compensation at the biweekly or hourly rate for the range and step or flat rate assigned to the class in which they are employed.

Section 2. Pay Check Deposit

Employees hired after June 29, 2001 will be required to authorize automatic deposit of his or her paycheck to a financial institution of the employee's choice.

Section 3. Pay for New Employees

- A. A new employee shall be paid at the recruiting step of the salary range in effect for the particular class or position in which the new employee is hired except as provided in Sections 2.B., C., and D., below.
- B. Upon recommendation of the Human Resources Director, the Board may, by minute order, authorize that a particular position be filled at any step within the range. When the Board authorizes the filling of the position at a step which is higher than the recruiting step of the salary range, it may, by minute order, advance the salary of incumbents of positions in that class or related classes in order to retain equitable relationships.
- C. The Agency or Department Head may authorize the appointment of employees at any of the first seven (7) steps of the salary range. Such appointments shall be made only when the Agency or Department Head makes a determination that there is a direct and measurable benefit to the County from such appointments and makes a determination that the applicant's previous training and experience enables him or her to make a greater contribution than a less experienced employee.
- D. Upon recommendation of the Agency or Department Head, the County Executive Officer may authorize the appointment of employees beyond step seven (7) of the salary range when there is a direct and measurable benefit to the County for such appointment.
- E.
 - 1. The County may adjust the recruiting step of classes during the term of this Agreement, wherever justified, by recruiting and labor market considerations.
 - 2. If a recruiting step is decreased, incumbents of the class will be unaffected.

3. If a recruiting step is increased for a class, all employees in that class below the new recruiting step shall be advanced to the new recruiting step and a new merit increase date shall be assigned as provided in Section 3.C. for new employees.
4. Any regular employee whose salary could be bypassed by a new employee, if that employee was hired the date of the recruiting rate change, shall have his or her merit increase date advanced to the same date provided for such new employee.

Section 4. Merit Increase Within Range

- A. Extra help employees shall not be eligible for merit increases within range.
- B. Salary increases within a range shall not be automatic. They shall be based upon merit and granted only upon the affirmative recommendation of the agency/department head.
- C. A new or reemployed employee in a regular or limited-term position shall have a merit increase eligibility date which shall be the first day of the pay period following the completion of the first twenty-six (26) weeks of service within that class. The granting of an Official Leave of Absence (other than a Military Leave), or the imposition of a suspension shall cause the merit increase eligibility date to be extended a number of calendar days equal to the Official Leave or suspension. The extended merit increase eligibility date will be effective the first day of the pay period after said date. Subsequent merit increase eligibility dates shall be the first day of the pay period following the completion of fifty-two (52) week intervals subject to the same postponement for Official Leaves of Absence or suspensions.
- D. An employee in a part-time regular or limited-term position who has not completed one thousand forty (1040) paid hours exclusive of overtime by his or her first merit increase date shall have the merit increase eligibility date postponed until the first day of the pay period following completion of one thousand forty (1040) paid hours exclusive of overtime. Likewise, an employee in a part-time regular or limited-term position who has not completed two thousand eighty (2080) paid hours exclusive of overtime between subsequent merit increase eligibility dates shall have his or her merit increase eligibility date postponed until the first day of the pay period following completion of two thousand eighty (2080) paid hours exclusive of overtime. Where an employee's record consists of a combination of full-time and part-time service, both periods of service shall apply towards merit increase eligibility with the part-time service being applied proportionately to the appropriate full-time interval.
- E. 1. Merit increases may be granted for one (1), two (2), three (3) or four (4) steps within the salary range based upon the employee's performance. A performance rating of "meets performance objectives" shall earn a two (2) step increase, except that for any employee hired

as a Custodial Worker on or after August 5, 1994, "meets" or "exceeds" performance objectives shall earn a four (4) step increase.

2. For any employee hired on or after July 15, 1977, the determination as to whether or not to grant merit increases beyond Step 10, and if granted, in what amounts, shall be solely within the discretion of the agency/department head and shall be based on merit.
 - a. Upon employee request, the agency/department shall meet with the employee to identify performance objectives for merit increases beyond Step 10. The employee must request such meeting near the beginning of the rating period. Disputes about the employee's achievement of performance objectives are not grievable.
- F. If, in the agency's/department's judgment, the employee's performance does not merit a salary increase on the merit increase eligibility date and a deferral of decision accompanied by an intensive effort at improved performance might be productive, the agency/department shall complete the structured merit rating and defer a decision regarding the merit increase any number of pay periods, but not to exceed thirteen (13) pay periods. A deferral of less than thirteen (13) pay periods may be further extended not to exceed thirteen (13) pay periods from the original merit eligibility date. The employee may be reevaluated at any time, but in any event shall be reevaluated on the structured merit rating prior to the end of the thirteenth pay period. The employee's merit increase eligibility date shall not be changed by such deferral.
- G. Should an employee's merit increase eligibility date be overlooked through an error and upon discovery of the error the employee is granted a merit increase, the employee shall be compensated for the additional salary the employee would have received dating from the employee's merit increase eligibility date.

Section 5. Salary on Promotion

- A. Except as modified by B. and C., below, a regular, limited-term or probationary employee who is promoted to a position in a class with a higher salary range shall receive the recruiting salary for the higher class or such higher amount as would be the closest to a two (2) step increase on the range over the salary received prior to the promotion not to exceed the top step of the range. A new merit increase eligibility date shall be established which shall be the first day of the pay period following completion of the first twenty-six (26) weeks of service in the new class.
- B. Any employee who is promoted to a class from which the employee was previously reduced without a salary decrease shall be placed at a salary step no higher than the step which the employee would have achieved if the employee had remained in the class to which he or she is promoted and

had demonstrated at least standard performance. The employee's merit increase eligibility date shall be reestablished in order to credit the employee with any time formerly served in the higher class.

- C. Upon recommendation of the agency/department head, the County Executive Officer may, based on consideration of such factors as external market data, internal salary relationships, position responsibilities, individual performance and sound management principles, approve a rate of pay on promotion not to exceed the top of the pay range to which the employee is being promoted.

Section 6. Salary on Reassignment

- A. When a regular, limited-term or probationary employee is reassigned to a class with the same recruiting step, such employee's salary and merit increase eligibility date shall not change. Such employee shall have the same probation status which would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- B. When a regular, limited-term or probationary employee is reassigned to a class with a higher recruiting step, such employee's salary shall be advanced the number of steps difference between recruiting steps and the employee shall retain his or her former merit increase eligibility date, except as provided in E., below. Such employee shall have the same probation status which would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- C. When a regular or limited-term regular employee is reassigned to a class with a lower recruiting step, such employee's salary and merit increase eligibility date shall not change. Such employee shall have the same probation status which would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- D. When a probationary or probationary limited-term employee is reassigned to a class with a lower recruiting step, such employee shall have the same salary, step status, probation status and merit increase eligibility date as would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- E. When a regular, limited-term or probationary employee is involved in a series of reassignments among classes with the same salary range but different recruiting steps, his or her salary and merit increase eligibility date shall be determined by the Human Resources Director.

Section 7. Salary on Reduction

- A. 1. When a probationary employee is reduced to a class not previously occupied by the employee, the employee shall receive the recruiting step for the lower class and shall receive a new merit increase eligibility date as provided in Section 3.C., above, or the employee's salary and merit increase eligibility date may be determined by the Human Resources Director.
2. When a promotional probationary employee, an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the employee's agency/department head is reduced to a class the employee occupied in good standing, the employee shall have the step status and merit increase eligibility date he or she would have achieved if the employee had remained in the lower class throughout the period of his or her service in the higher class.
- B. When a regular or limited-term regular employee is reduced to a position in a lower class by demotion for reasons of unsatisfactory performance, the employee's salary shall be reduced to a step on the salary range which would be the closest amount to a two (2) step reduction or the employee shall receive the maximum step of the salary range of the new class, whichever is lower. The employee's merit increase eligibility date shall be the first day of the pay period following completion of fifty-two (52) weeks of service in the new class, unless the employee thereby is placed at the recruiting step of the new salary range, in which case the employee's merit increase eligibility date shall be the first day of the pay period following the completion of twenty-six (26) weeks of service in the new class.
- C. When a regular or limited-term regular employee in good standing is reduced to a position in a lower class for physical disability or reasons other than unsatisfactory performance, the employee shall receive the highest salary in the new range that does not exceed the employee's rate of pay immediately prior to reduction and shall retain his or her merit increase eligibility date.
- D. When a regular, limited-term or probationary employee is reduced because the position the employee occupied is reclassified, the applicable salary shall be determined as follows:
 1. If the salary of the employee is the same or less than the maximum of the new class, the salary and merit increase eligibility date of the employee shall not change.
 2. If the salary of the employee is greater than the maximum of the new range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum of the new range exceeds the salary of the employee or until the period

of calendar time indicated in the schedule below has elapsed, whichever is sooner. If, at the end of the calendar period indicated below, the salary of the employee still exceeds the maximum of the new salary range, the salary of the employee shall be reduced to the maximum salary for the new class.

Y-RATE SCHEDULE

<u>Years of Full-Time Continuous Service</u>	<u>Duration of Y-Rate</u>
Less than 5 years	Two years from the date of reclassification
5 years but less than 10 years	Three years from the date of reclassification
10 years but less than 15 years	Four years from the date of reclassification
15 years but less than 20 years	Five years from the date of reclassification
20 years but less than 25 years	Six years from the date of reclassification
25 years or more	Seven years from the date of reclassification

3. When an employee on Y-Rate accepts a voluntary reduction, his or her salary shall be reduced by the amount of the difference between the maximum salary of the class from which the employee is being reduced and the maximum salary of the new class.

Section 8. Salary on Reclassification

The salary of a regular, limited-term or probationary employee whose position is reclassified shall be determined as follows:

- A. If the position is reclassified to a class with the same salary range, the salary and merit increase eligibility date of the employee shall be governed by Article II, Section 5.A., B. or C.
- B. If the position is reclassified to a class with a higher salary range, the salary of the employee shall be governed by Article II, Section 4.A.
- C. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be governed by Article II, Section 6.D.2.

Section 9. Salary on Reemployment

- A. A person who is reemployed in the same occupational series in which the person held regular status and was separated in good standing may, upon approval of the Human Resources Director be appointed at a step higher than the recruiting step, but no higher than the step the person received at the time of separation unless appointment is at an advanced step or rate pursuant to Article II, Section 2.C.
- B. A former County employee on paid County retirement may be reemployed for the maximum allowable time, pursuant to Government Code provisions, in any one (1) fiscal year in a position requiring special skills and knowledge and may be appointed to the position at any step on the salary range.

Section 10. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary allocation (unrelated to a classification study) for any class included in this Agreement. An increase in salary resulting from a classification study shall be subject to the provisions of Article XVIII.
- B. If a class is reassigned to a different salary range, each employee in the class shall be compensated at the same step in the new salary range as he or she was receiving in the range to which the class was previously assigned.

Section 11. Additional Compensation

Notwithstanding anything in this Memorandum of Understanding to the contrary, when in the judgment of the Board, it becomes necessary or desirable to utilize the services of County employees in capacities other than those for which they are regularly employed, the Board may authorize and, if appropriate, fix an additional rate of compensation for such employees.

ARTICLE III GENERAL PERSONNEL PROVISIONS

Section 1. Probation

A. New Probation

1. Full-Time Employee

A new or reemployed employee employed in a regular or limited-term position in a class other than a law enforcement, professional or technical class shall be placed on a new probation for twenty-six (26) weeks from the date of appointment ending with the first day of the pay period following completion of said period.

2. Part-Time Employee

A new or reemployed employee employed in a part-time regular or limited-term position in a class other than a law enforcement, professional or technical class shall be placed on new probation for one thousand forty (1040) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.

B. Promotional Probation

1. Any regular or limited-term employee who is promoted, excluding a temporary promotion, shall be placed on promotional probation except as provided in B.2., below.

a. A full-time employee shall serve a probation period equal to the time period of the initial probation following completion of said period. However, an employee who promotes to a class in the same or closely related occupational series, shall serve a promotional probation period of twenty-six (26) weeks from the date of promotion ending with the first day of the pay period following completion of said period.

b. A part-time employee shall be placed on promotional probation for one thousand forty (1040) paid hours exclusive of overtime.

2. When a regular or regular limited-term employee is promoted as a result of the employee's position being reclassified to a higher class and the class from which the employee is promoted is subsequently deleted or abolished, the incumbent employee shall not serve a promotional probation period.

3. When an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the direction of the employee's agency/department head is reduced to a class the employee formerly occupied, the employee shall serve the remainder of any uncompleted probationary period in that class.

C. Failure of Probation

1. New Probation

An employee on new probation may be released at the sole discretion of the agency/department at any time without right of appeal or hearing, except as provided in C.3., below.

2. Promotional Probation

- a. An employee on promotional probation may be failed at any time without right of appeal or hearing, except as provided in C.3., below.
 - b. An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.
 - c. When an employee fails his or her promotional probation, the employee shall have the right to return to his or her former class provided the employee was not in the previous class for the purpose of training for a promotion to a higher class. When an employee is returned to his or her former class under the provisions of this Section, the employee shall serve the remainder of any uncompleted probationary period in the former class. A regular employee who accepts promotion to a limited-term position, other than at the direction of the employee's agency/department head, shall not have the right to return to his or her former class.
 - d. If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in his or her former occupational series closest to, but no higher than, the salary range of the class which the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.
3. An employee who alleges that his or her probationary release was based on discrimination by the County in violation of Article XVII, NONDISCRIMINATION, may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt of notice of failure of new probation.

D. General Provisions

1. When an employee's record consists of a combination of full-time and part-time service in regular or regular limited-term positions, except as provided in Section 4.D., below, part-time service shall be applied proportionately by using total hours worked to appropriate full-time requirements. For purposes of this Section, one thousand forty (1040) hours shall equal twenty-six (26) weeks and two thousand eighty (2080) hours shall equal fifty-two (52) weeks.
2. When an agency/department head or his or her representative passes an employee on probation, that determination shall be based upon a written performance evaluation and shall be discussed with the employee. A probation period may not be extended without mutual consent of the employer and the employee, except as provided in Sections 1.E.1., 2., 3. and 4. of this Article below.

The agency/department must affirm in writing that the employee has passed probation before such probation period shall be deemed to be successfully completed. If written notice of passage or failure of probation is not given within twenty-eight (28) days past the due date, the employee shall pass probation.

3. An employee who is on probation may not transfer from one agency/department to another in the same class without the approval of the Human Resources Director.

E. Extensions of Probation Periods

1. The granting of an Official or Military Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave or by the length of the Military Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended probation period resulting from the Official or Military Leave of Absence shall end with the first day of the pay period after said extended date. An employee who is suspended shall have his or her probation extended by the length of suspension, with the extended probation period ending with the first day of the pay period after said extended date.
2. The Human Resources Director shall extend the new or promotional probationary periods of incumbents appointed as a result of a selection procedure which is appealed. Such probationary periods shall be extended no longer than sixty (60) calendar days from the date on which the County receives the Appeals Officer's findings and decision. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee has served a probationary period which is longer than the probationary period normally prescribed for new or promotional probation, such an

employee may fail probation during the extended period only upon recommendation of the Appeals Officer and final determination of the Board of Supervisors.

3. Upon mutual request of the employee and the agency/department, the employee's probation period may be extended at the sole discretion of the Human Resources Director for a period not to exceed ninety (90) calendar days provided such action is approved by the Human Resources Director before the normal probation period is completed.

Denial of a request to extend the new probation period shall not be subject to appeal or hearing.

4. The Human Resources Director shall extend the probation period of employees with an employment authorization document which has an expiration date which would occur after the end of the probation period. Such probation periods shall be extended to coincide with the expiration date of the employment authorization document. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee serves a probationary period which is longer than the normal probation period, such an employee may fail probation during the extended period only for failure to obtain a new, valid employment authorization document by the expiration date of the expiring employment authorization document.

Section 2. Performance Evaluation

- A. The County shall maintain a system of employee performance ratings designed to give a fair evaluation of the quantity and quality of work performed by an employee. Such ratings shall be prepared and recorded in the employee's personnel file for all regular and limited-term full and part-time employees at least once each year; and in addition, for employees on probationary status, at least once near the middle of the probation period.
- B. The County shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- C. When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any attachment relating thereto, shall be given to the employee.
- D. The agency/department shall notify an employee as soon as practicable, if it appears that his/her substandard work performance may result in denial or deferral of his/her merit increase and/or a substandard performance evaluation, so that the employee may attempt to correct such conduct.

The Union agrees that the question whether or not the supervisor actually responded "as soon as practicable" will not be grievable.

Section 3. Contents of Personnel File

- A. Adverse statements prepared by the County shall not be included in an employee's official personnel file unless a copy is provided to the employee.
- B. An employee shall have the right to inspect and review the contents of his or her official personnel file at reasonable intervals.
- C. In addition, an employee shall have the right to inspect and review the contents of his or her official personnel file in any case where the employee has a grievance related to performance; to a performance evaluation; or is contesting his or her suspension or discharge from County service.
- D. Letters of reference and reports concerning criminal investigations concerning the employee shall be excluded from the provisions of B. and C., above.
- E. An employee shall have the right to respond in writing or personal interview to any information contained in his or her official personnel file, such reply to become a permanent part of such employee's official personnel file.
- F. Any contents of an employee's official personnel file may be removed pursuant to an agreement between the Human Resources Director and the employee concerned or by an order of an arbitrator, court or impartial hearing officer unless the particular item is otherwise required by law to be kept.

Section 4. Status of Limited-Term Employees

- A. All limited-term employees shall be subject to the same hiring standards and shall earn all benefits, except Article XI, LAYOFF PROCEDURE, which accrue to employees in regular positions.
- B. A regular employee who transfers, promotes or reduces to a limited-term position on a voluntary basis and not at the direction of the agency/department head shall become a limited-term regular employee.
- C. Limited-term employees hired under programs which involve special employment standards shall serve a new probation period upon transfer to permanent funded positions. Upon transfer to permanent positions, such employees shall maintain their original hire date for purposes of vacation, sick leave, or annual leave accrual, retirement and layoff. The requirement that such employees serve a new probation period may be waived by the County. Limited-term employees not hired under programs which involve special employment standards shall, upon transfer to permanent funded positions, maintain their original hire date for purposes of vacation, sick leave accrual, annual leave, retirement, layoff and new employee probation.

- D. When funding ceases for a limited-term position or when the position is no longer necessary, the limited-term position shall be abolished and the incumbent shall be removed from the payroll except as provided in E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Agency/Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The agency/department head shall make such an order in writing prior to the date of transfer or promotion.

Section 5. Temporary Promotion

- A. A regular, probationary or limited-term employee who is assigned on a temporary basis to a higher level vacant regular or limited-term position shall be promoted on a temporary basis to that class when such employee has been assigned to the higher class for one hundred twenty (120) consecutive regularly scheduled hours of work and the employee has been performing all of the significant duties and responsibilities of the higher class, unless the employee requests to be reassigned to his or her former class. At any time before the temporary promotion is made, such employee may request to be reassigned to his or her former class. In such a case, the employee shall be reassigned within five (5) working days.
- B. An agency/department may, at its option, waive the one hundred twenty (120) hour requirement when it is necessary to utilize a regular, probationary or limited-term employee in a higher level vacant regular or limited-term position for a period that is expected to be at least one hundred twenty (120) regularly scheduled hours but not to exceed eighteen (18) months.
- C. An employee on temporary promotion shall not be placed on promotional probation. Upon return from temporary promotion, an employee shall serve the remainder of any uncompleted probationary period in the employee's former class and shall have the step status and merit increase eligibility date he or she would have achieved if the employee had remained in the lower class throughout the period of his or her service in the higher class.
- D. At the end of the employee's assignment to the higher class, the employee shall have the right to return to his or her former class and agency/department. A temporary promotion shall not exceed a period of eighteen (18) months.

Section 6. Reemployment of Employees on Disability Retirement

- A. The County will advise employees retired for disability to contact the Orange County Employees Retirement System (OCERS) to determine the impact of reemployment on their disability retirement benefits prior to accepting reemployment.

Section 7. Reemployment of Regular Employee

A regular employee who leaves County employment and is reemployed within fifteen (15) calendar days shall be deemed to have been on Departmental Leave for such period of time.

Section 8. Time Off for Selection Procedures

A regular, limited-term or probationary employee shall be entitled to necessary time off with pay to participate in tests of fitness, examinations and interviews required by the Human Resources Director during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one agency/department to another.

Section 9. Transfer Policy for Union Officers and Grievance Representatives

Management shall not, wherever practicable, assign a Union officer or Grievance Representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. the Union objects to such assignment (the Union shall not object to such assignment change, except for good cause); and
- C. there is another employee in the same classification in the agency/department who meets the specific qualifications for the assignment.

Section 10. Training

- A. Upon approval of the agency/department head, employees may participate in various County sponsored training programs. The County and the Union will inform employees of these training programs.
- B. During the term of this Memorandum of Understanding, the Union may request specific training or development opportunities for various employees in this Unit. The County agrees to discuss such requests with the Union and consider implementation.

ARTICLE IV LEAVE PROVISIONS

Sick Leave shall apply to regular and limited term employees hired prior to July 15, 1977. Employees hired on or after July 15, 1977 shall be covered by the Annual Leave Plan, Article VI.

Section 1. Sick Leave

A. Accumulation of Sick Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regularly scheduled workweek or period to a maximum of eighty (80) hours in a pay period (approximately seventy-two [72] hours per year).
2. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period to a maximum of eighty (80) hours in a pay period (approximately ninety-six [96] hours per year).
3. Sick Leave earned shall be added to the employee's Sick Leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates County service.
4. Extra help employees shall not earn sick leave.

B. Permitted Uses of Sick Leave

Sick Leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Once an employee has submitted, and has had approved, a request for time off for a medical or dental appointment, every effort will be made to honor the approval. Should a significant operational issue arise after approval has been granted, the County will make every reasonable effort to provide coverage before notifying the employee of the need to change the appointment.
3. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the County that the presence of the employee on duty would endanger the health of others.

4. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family, provided that such absence shall be limited to a maximum of three (3) working days for each occurrence. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, grandparent or legal ward.
5. Illness while on paid vacation will be charged to Sick Leave rather than vacation only under the following conditions:
 - a. The illness or injury of the employee was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
 - b. The employee must notify his or her supervisor within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave, whichever is sooner, to request that his or her illness on vacation be charged to Sick Leave.
 - c. The agency/department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
 - d. Upon the employee's return to work, the employee must furnish the agency/department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
6. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.
7. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
8. An approved absence due to unforeseen and uncharacteristic working conditions which may be hazardous to the employee's health.

C. Prohibited Uses of Sick Leave

Sick Leave shall not be applied to:

1. Absence caused by illness or injury to a member of the employee's family except as provided in B.4. or B.6., above.
2. Absences which occur on a County holiday.

D. General Provisions

1. In any use of Sick Leave, an employee's account shall be charged to the nearest quarter hour.
2. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls. Such evidence may be required when the employee has been under the care of a physician or when there is reasonable expectation of abuse of sick leave. The requirement will expire after one year if sick leave is used properly during that period. This subsection shall not be subject to the arbitration provision.
3. a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused Sick Leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Sick Leave Paid For</u>
Less than 5 years	None
5 but less than 10	25%
10 but less than 15	50%
15 but less than 20	75%
20 or more	100%

Years of service as used herein shall be the equivalent of full-time continuous service in a regular position. Employees who elect to take deferred retirement shall not be eligible for any benefits provided by this Paragraph.

- b. Not more than once in each fiscal year, an employee hired prior to July 15, 1977, who, as of date of request, is eligible for Tier I paid retirement and who has accumulated unused Sick Leave in excess of two hundred eighty (280) hours shall, upon request, receive a payoff for up to one-third (1/3) of all his or her accumulated Sick Leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of Sick Leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's Sick Leave balance will be reduced by the total number of hours elected and approved for payoff by the employee prior to the application of the eligible percentage described in Section 1.D.3.a.

- c. Notwithstanding the provisions of 3.b., above, an employee hired prior to July 15, 1977 who, as of the date of request, is eligible for Tier I paid retirement and who has given irrevocable written notice of his or her intent to retire, may request that a payoff of his or her accumulated sick leave be made to his or her deferred compensation account with the County to the maximum amount permitted under the regulations that govern deferred compensation programs and to the extent permitted under the provisions of 3.a., above, provided that such request is made at least thirty (30) but no more than sixty (60) calendar days prior to the effective date of his or her retirement. Such payoff shall be made prior to the effective date of the employee's retirement.
4. Employees hired on or after July 15, 1977, shall not be eligible for any benefits provided by Paragraph D.3., above.
5. Upon request of the County, negotiations shall be reopened to consider alternative sick leave incentive/control programs.

Section 2. Bereavement Leave

Upon request, regular, limited-term or probationary employees shall receive necessary time off with pay, not to exceed five (5) days in any one (1) instance, to arrange for or attend a funeral of a member of their immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, step child, grandparent, grandchild or legal guardian.

Section 3. Authorized Leave Without Pay

A. Agency/Departmental Leave

A regular, limited-term or probationary employee may request an agency/departmental Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of the agency/department, except in cases where Official Leave has been authorized pursuant to B.4., B.5. and Section 10.A., below. The agency/department head may require that all accumulated compensatory time be used prior to granting of agency/departmental leave. The use of earned vacation or annual leave prior to the obtaining of agency/departmental leave shall be at the option of the employee.

B. Official Leave

1. Upon request, a regular, limited-term or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year except as provided in 2. and 3., below. Such Leave may be authorized only after an employee's

completion of an agency/departmental leave and after all compensatory, vacation accruals and/or the portion of annual leave balance subject to 100% payoff have been applied toward payment of the absence.

2. An Official Leave of Absence may be extended for up to an additional one (1) year at the discretion of the agency/department except that requests for Official Leave which qualify as Family Leave pursuant to applicable law shall be granted to the extent required by such law. If the agency/department denies the extension of such Leave, the provisions of 5. and 6., below, shall not apply.
3. Upon request, an employee who has requested and identified a valid need for Family Leave pursuant to Section 15 and applicable law, shall be granted Official Leave to the extent required by such law. Such leave shall be authorized only after an employee's completion of an agency/departmental leave and after all accumulated compensatory time and vacation accruals and/or the portion of the annual leave balance subject to 100% payoff have been applied toward payment of the absence. In addition, where appropriate under the provisions of Article IV, Section 1.B., or Article VI, Section 2, the employee may be required to apply all sick leave or annual leave accruals toward payment of the absence before an Official Leave will be authorized.
4. An employee shall give notice two (2) weeks prior to the date he or she wants to return to work except that an employee returning from Family Leave shall give the lesser of two (2) weeks notice or the maximum notice allowable under applicable law. If an employee does not give the required notice prior to the date he or she wants to return to work, the agency/department shall not be required to return the employee to work until the employee gives such notice; however, the agency/department may waive the notice or reduce the notice period at its discretion.
5. The agency/department shall indicate on the request its recommendations as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Human Resources Director. If the Human Resources Director approves the request, he or she shall deliver a copy to the Auditor-Controller and the employee.
6. If the agency/department modifies or does not approve a request for Official Leave, the employee may, within fifteen (15) calendar days of said action, file a request for review with the Human Resources Director. The decision of the Human Resources Director on such appeals shall be final.
7. An Official Leave shall not be credited toward continuous service.

C. General Provisions

1. A request for a Leave of Absence shall be made upon forms prescribed by the Human Resources Director and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence and the probable date of return.
2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the employee's agency/department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.
3. An employee who has been absent without pay for twelve (12) months due to a Leave granted pursuant to Sections 3, 4, and/or 10 of this Article shall be considered to have automatically resigned his or her employment with the County under the provisions of Section 9, below, unless he or she returns to work at the end of the twelve (12) months or receives approval for an extension of his or her Leave.

Section 4. Official Leave for Nonoccupational Disability

- A. A regular, limited-term or probationary employee shall be granted upon request an Official Leave of Absence Without Pay for up to six (6) months for a nonoccupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
 1. A medical statement covering diagnosis, prognosis, expected date of return and period of disability shall be submitted with the Leave request.
 2. Such Leave shall begin after all accrued compensatory, vacation, and/or or the amount of annual leave subject to 100% payoff time have been applied toward the absence.
 3. Unless required by law, the employee has been paid for 6240 regularly scheduled hours or more.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. An employee shall not be entitled to more than one (1) such Leave pursuant to this Section per twelve (12) month period.

Section 5. Absences Caused by Illness, Injury or Pregnancy

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to illness, injury or pregnancy shall not be permitted to resume work until, and unless, the employee obtains a medical clearance from a physician designated by the County.

Section 6. Jury Duty Leave

A regular, limited-term or probationary employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the County Treasurer. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. Any hours worked beyond the regularly scheduled workday shall be subject to the workweek and overtime provisions (Article I). An employee may request a change in regularly scheduled working hours to a Monday through Friday day shift for the duration of such jury duty. Such requests shall be granted if practicable.

Section 7. Witness Leave

A regular, limited-term or probationary employee who is called to answer a subpoena as a witness for court appearances during the employee's work hours, except where the employee is a litigant, shall be compensated at his or her regular rate of pay for all hours of absence from work due to answering the subpoena provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the County Treasurer. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

Section 8. Leave for Union Business

- A. The County agrees to grant, if requested, Union Officer Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to a Union officer for the term of this Memorandum of Understanding providing that:
1. The Union Officer leave shall be for a minimum of eight (8) hours.
 2. The Union Officer Leave is requested ten (10) calendar days in advance. Said notice may be waived by mutual consent.
 3. The union promptly reimburses the County for all the Union Officer salary and benefit expenses incurred during the Union Officer Leave.
 4. The employee shall continue to conform to the department rules and regulations that are not inconsistent with Union Officer Leave.
 5. The employee "meets" or "exceeds" performance objectives.
 6. The County will not reassign or transfer the individual to any position in his or her class at the discretion of the agency/department unless significant business or operational concerns occur.

- B. Vacation and sick leave or annual leave accrual rates will apply to the employee as though he or she were on duty status.
- C. Vacation and sick leave or annual leave accrued during Union Officer Leave and unused at the conclusion of the leave must either be paid off by the Union or lost.
- D. The merit increase eligibility date, if applicable, shall be extended a number of calendar days equal to the Union Officer Leave. This extended merit increase eligibility date will be effective the first day of the pay period after said date.
- E. The probation period, if applicable, shall be extended by the length of the Union Officer Leave. The extended probation period shall end on the first day of the pay period following said extended date.
- F. The employee's eligibility for promotional examinations shall not be affected by Union Officer Leave.
- G. Layoff points shall not be affected by Union Officer Leave.
- H. In the event emergency recall of the employee becomes necessary, the Union Officer Leave may be suspended or cancelled during the course of the emergency. The Union shall not be obligated for reimbursement costs listed in A.3., A.4., and for the period that the Union Officer Leave is suspended or cancelled. Provisions of A.1. through A.7., above, shall be suspended during said emergency recall.
- I. Usually one (1) employee shall be eligible for Union Officer Leave at any one (1) time. However, upon mutual agreement, the Human Resources Director can authorize additional individuals to be on Union Officer Leave.

Section 9. Presidential Leave

- A. The County agrees to grant, if requested, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of AOCW during the term of this Memorandum of Understanding providing that:
 - 1. The Presidential Leave shall be for a minimum of eight (8) hours.
 - 2. The Presidential Leave is requested ten (10) calendar days in advance. Said notice may be waived by mutual consent.
 - 3. AOCW promptly reimburses the County for AOCW President salary expenses incurred during the Presidential Leave.

4. AOCW promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.
 5. The employee shall continue to conform to the department rules and regulations that are not inconsistent with Union Officer Leave.
 6. There is not a compelling need for the employee to perform County work.
 7. The employee "meets" or "exceeds" performance objectives.
 8. When the duration or frequency of Presidential Leave is such that the employee's absence imposes a hardship on agency/departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation and sick leave or annual leave accrual rates will apply to the employee as though he or she were on duty status.
- C. The merit increase eligibility date, if applicable, shall be extended a number of calendar days equal to the Presidential Leave. This extended merit increase eligibility date will be effective the first day of the pay period after said date.
- D. The probation period, if applicable, shall be extended by the length of the Presidential Leave. The extended probation period shall end on the first day of the pay period following said extended date.
- E. The employee's eligibility for promotional examinations shall not be affected by Presidential Leave.
- F. Layoff points shall not be affected by Presidential Leave.
- G. In the event emergency recall of the employee becomes necessary, the Presidential Leave may be suspended or cancelled during the course of the emergency. AOCW shall not be obligated for reimbursement costs listed in A.3., A.4., and for the period that the Presidential Leave is suspended or cancelled. Provisions of A.1. through A.8., above, shall be suspended during said emergency recall.

Section 10. Compensatory Time Trust Fund

- A. The County agrees to administer a trust fund to which employees may contribute compensatory time for the sole purpose of reimbursing employees who are on Leave for Union business. That business shall be defined as conferences, conventions and negotiations.

- B. In April of each year, employees may designate two (2) hours of their compensatory time to be credited to the trust fund. Once made, such contributions shall not be revocable.
- C. Compensatory time will be credited to the fund at the contributing employee's base hourly rate of pay. Reimbursement to employees granted Leave pursuant to A. and C., above, shall be at the employee's base hourly rate of pay not to exceed eight (8) hours per day. In those cases where overtime is paid to an employee who replaces an employee's granted Leave, the overtime premium (one-half [1/2] time) shall be paid from the fund.
- D. If the funds in the trust fund are insufficient to cover all or any part of a Leave, the funds shall be dispersed in the same order as the Leave was approved, and the County shall not be liable for providing any additional funds to the trust fund.
- E. The Union shall indemnify and hold the County harmless from any liability or claim arising out of the administration of the trust fund.
- F. The Union agrees to reimburse the County for reasonable cost of administering the trust fund upon request.

Section 11. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation from County employment as of the last date of which the employee was to return to work from an authorized absence.
- B. If an employee does not have prior authorization to be absent from work, such employee may request specific authorization from the agency/department head prior to the expiration of the time limit specified in A., above.
- C. When an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, at least ten (10) calendar days prior to accepting and entering an automatic resignation, the County shall send written notice to the employee's last known address by certified mail with return receipt requested, and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:
 - 1. a statement of the County's intention to accept and enter the employee's automatic resignation and its effective date;
 - 2. a statement of the reasons for considering the employee to have automatically resigned;

3. a statement of the employee's right to respond, either orally or in writing, prior to the date the County plans to accept and enter the automatic resignation;
 4. a statement of the employee's right to representation;
 5. a copy of the automatic resignation provisions which apply to the employee;
 6. a statement that if the employee fails to respond to the written notice before the effective date of the automatic resignation, the employee has waived any right to appeal the automatic resignation.
- D. An automatic resignation shall not be accepted and entered if the employee 1) responds to the notice before the effective date, 2) provides an explanation satisfactory to the agency/department as to the cause of the unauthorized absence and the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons, and 3) is found by the agency/department to be ready, able and willing to resume the full duties of his or her position.
- E. An employee who is permitted to continue his or her employment pursuant to C. and/or D., above, shall not be paid for the period of his or her unauthorized absence and shall be treated as if on a leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the agency/department determines it is appropriate to use sick leave, compensatory time, vacation or other paid leave to cover the absence.
- F. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- G. Automatic resignations shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 12. Parenthood Leave

- A. A regular, limited-term or probationary employee shall be granted, upon request, a Parenthood Leave Without Pay of up to six (6) months in connection with the birth or placement for legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is commenced within six months before or after the date of birth or placement for legal adoption of the child.
 2. Sufficient documentation of such birth or placement for legal adoption is submitted with the request for Leave.
 3. Such employee has completed new probation.

4. All accrued vacation and compensatory time and/or annual leave subject to 100% payoff has been applied toward the absence.
- B. Unless otherwise required by law, employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.
- C. Sick Leave or annual leave may be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article provided the employee has furnished the agency/department with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
- D. Pregnant employees may also apply for a Nonoccupational Disability Leave for the term of disability as provided in Section 4. of this Article.
- E. Parenthood Leave shall not be credited toward continuous service.
- F. For employees on Parenthood Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

Section 13. Workers' Compensation Leave

- A. When an injury is determined to be job related in accordance with Article XII, a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave. If such determination cannot readily be made and all sick leave or annual leave subject to 100% payoff has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.
- B. Workers' Compensation Leave shall continue until any of the following occur:
 1. the employee is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 2. the employee is determined to be physically able to return to work with medical restrictions which the County can accept and such determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 3. the employee accepts employment outside the County; or
 4. the employee accepts employment in another County position; or
 5. the employee has been found to be permanent and stationary and is not rehabilitated as provided by law; or

6. the employee is retired pursuant to Government Code provisions.

An employee who does not return to work within two (2) weeks of the end of his or her Workers' Compensation Leave pursuant to this provision, shall be considered to have automatically resigned his or her employment with the County under the provisions of Section 11., above.

- C. If practicable, an employee on Workers' Compensation Leave will give notice two (2) weeks prior to the date he or she wants to return to work. If an employee does not give two (2) weeks notice prior to the date he or she wants to return to work, the agency/department shall not be required to return the employee to work until such notice is given; however, the agency/department may waive the notice or reduce the notice period at its discretion.

Section 14. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law for the following situations:
 - a. An employee's serious health condition (see Section 4., above).
 - b. The birth of a child or placement of a child for adoption or foster care (also see Section 12., above).
 - c. Employee's presence is needed to attend to a serious health condition of the employee's child, spouse or parent.
2. Employees must request and identify their need for Family Leave. Requests for Family Leave may also fall under the provisions of Section 3., 4., and 12., above.
3. The County shall determine if a request for Family Leave is valid within the parameters of applicable law.
4. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, sick leave, compensatory, and/or vacation time is to be applied and shall determine the order in which such time is applied. The use of sick leave shall be restricted to those circumstances which qualify under the provisions of Article IV, Section 1.B.

B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the agency/department with thirty (30) calendar days notice of his or her intent to take Family Leave.

2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency/department operations.

C. Verification

1. The County may require certification from the health care provider or other County approved evidence as to the necessity of Family Leave for serious health conditions. The County may also require convincing written evidence that the employee is needed to care for a spouse, child or parent.
2. The County may require a medical statement covering diagnosis, prognosis, and expected date of return.
3. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 15. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit limited individual donations of annual leave, vacation, compensatory and/or PIP leave time to an employee who is required to be on an extended unpaid leave due to a catastrophic medical condition or other serious circumstances.

ARTICLE V VACATION

Vacation shall apply to regular and limited term employees hired prior to July 15, 1977. Employees hired on or after July 15, 1977 shall be covered by the Annual Leave Plan, Article VI.

Section 1. Accumulation of Vacation

- A. A new employee in a full-time regular or limited-term position shall earn eighty (80) hours of vacation when the employee has accumulated two thousand eighty (2080) regularly scheduled paid hours. An employee shall earn a second eighty (80) hours of vacation when the employee has accumulated four thousand one hundred sixty (4160) regularly scheduled paid hours and a third eighty (80) hours vacation when the employee has accumulated six thousand two hundred forty (6240) regularly scheduled paid hours.
- B. After an employee in a regular or limited-term position has been paid for six thousand two hundred forty (6240) regularly scheduled hours, the employee shall earn .0577 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred twenty [120] hours per year), but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such credit shall be applied to the employee's vacation accumulation account only upon completion of each pay period. No credit shall be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service, an employee in a regular or limited-term position shall earn .077 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred sixty [160] hours per year), under the same terms and conditions as under B., above.
- D. A new employee in a part-time regular or limited-term position shall earn pro rata vacation in fifty-two (52) week segments. At the conclusion of fifty-two (52) weeks of employment, the ratio of regularly scheduled hours paid to two thousand eighty (2080) shall be determined. The same ratio shall be applied to eighty (80) hours to establish the amount of vacation to be credited to the employee's account as of the conclusion of the pay period in which the fifty-two (52) week period ended. The same procedure shall be applied to each subsequent fifty-two (52) week period.
- E. The maximum allowable vacation credit at any one (1) time for a full-time employee with less than ten (10) years of full-time continuous service shall be two hundred forty (240) hours or a prorated amount equal to six (6) weeks of vacation for part-time employees. The maximum allowable vacation credit at any one (1) time for a full-time employee with ten (10) or

more years of full-time continuous service shall be three hundred twenty (320) hours and a prorated amount equal to eight (8) weeks of vacation for part-time employees.

Section 2. General Provisions

- A. Not more than eighty (80) hours of paid time may be credited toward accumulation of vacation credit in any pay period.
- B. An Official Leave of Absence shall cause the aforementioned ten (10) years (Article V, Section 1.C.) of full-time County service to be postponed a number of calendar days equal to the Official Leave.
- C. When an employee's County service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply towards the required ten (10) years (Article V, Section 1.C.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- D. Additional vacation earned during the period of vacation may be taken consecutively.
- E. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- F. Vacation shall be scheduled for employees by their agency/department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G. No scheduled vacation will be cancelled, except in cases of emergency.
- H. Illness while on paid vacation will be charged to Sick Leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- I. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid vacation from the County service except as a Fire Suppression Volunteer, Deputy Sheriff - Emergency Service, Election Board Officer or Election Night Help.
- J. An employee separating from County service for reasons other than paid County retirement shall be paid for all accrued vacation in a lump sum payment. An employee who is separating from County service by way of paid County retirement may elect either to take time off for his or her vacation or to be paid for his or her vacation in a lump sum payment.

K. Vacation Scheduling

1. Vacation shall be scheduled by the agency/ department. The County shall schedule on a County seniority basis those vacation requests which have a sum total for the calendar year of less than or equal to the vacation entitlement earned in two thousand eighty (2080) hours.
 2. After all vacation requests for the one (1) year entitlement are scheduled, the County shall schedule on a County seniority basis the portion of vacation requests for a calendar year which exceed the amount of vacation earned in two thousand eighty (2080) hours.
 3. Vacation requests for the calendar year must be submitted by March 1 to receive consideration on a seniority basis.
 4. All vacation scheduling shall be done by the agency/department with due regard to the needs of the County work schedule. When circumstances require, the agency/department may reject an employee's request for vacation scheduling subject to the grievance procedure.
- L. During each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up twenty (20) hours each, or one (1) increment of up to forty (40) hours.

ARTICLE VI ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited term employees hired on or after July 15, 1977, and shall become effective upon completion of the required programming changes. Upon adoption of the Annual Leave Plan, annual leave will consist of the combined sick leave, vacation balances and accruals for employees covered by the Annual Leave Plan Provisions.

Section 1. Accumulation of Annual Leave

- A. During the first three (3) years of employment, a regular or limited term employee shall earn approximately five (5) hours and fifty-one (51) minutes of annual leave during each eighty (80) hour pay period (approximately one hundred fifty-two [152] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
- B. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn approximately eight (8) hours and nineteen (19) minutes of annual leave during each eighty (80) hour pay period (approximately two hundred sixteen [216] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
- C. Commencing with the pay period following that in which an employee completes ten (10) years of continuous fulltime County service, an employee in a regular or limited-term position shall earn nine (9) hours and fifty-one (51) minutes of annual leave during each eighty (80) hour pay period (approximately two hundred fifty-six [256] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
- D. Annual leave earned shall be added to the employee's annual leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates County service.
- E. The amount of annual leave an employee may accrue shall be unlimited.
- F. Extra help employees shall not earn annual leave.

Section 2. Use of Annual Leave for Illness or Injury

- A. Annual leave may be applied to:
 - 1. An absence necessitated by employee's personal illness, injury or disability due to pregnancy or childbirth.
 - 2. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician

designated by the County that the presence of the employee on duty would endanger the health of others.

3. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
 4. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave hours during the fiscal year.
 5. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
 6. An approved absence due to unforeseen and uncharacteristic working conditions, which may be hazardous to the employee's health.
- B. Once an employee has submitted, and has had approved, a request for time off for a medical or dental appointment, every effort will be made to honor the approval. Should a significant operational issue arise after approval has been granted, the County will make every reasonable effort to provide coverage before notifying the employee of the need to change the appointment.
- C. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls. Such evidence may be required when the employee has been under the care of a physician or when there is reasonable expectation of abuse of annual leave for illness or injury. The requirement will expire after one year if annual leave is used properly during that period. This subsection shall not be subject to the arbitration provision.
- D. Annual leave shall not be applied to absences which occur on a County holiday.

Section 3. Use of Annual Leave for Pre-scheduled Vacation

- A. Approved annual leave to be used as vacation shall be scheduled by the agency/department. The County shall schedule on a County seniority basis those annual leave vacation requests which have a sum total of the calendar year of less than or equal to the annual leave entitlement earned in two thousand eighty (2080) hours.
- B. After all annual leave vacation requests for the one (1) year entitlement are scheduled, the County shall schedule, on a County seniority basis, the portion of vacation requests for a calendar year which exceed the amount of annual leave earned in two thousand eighty (2080) hours.

- C. Annual leave vacation requests for the calendar year must be submitted by March 1 to receive consideration on a seniority basis.
- D. All annual leave scheduling shall be done by the agency/department with due regard to the needs of the County work schedule. When circumstances require, the agency/department may reject an employee's request for annual leave vacation scheduling subject to the grievance procedure.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.
- F. It is the intent of the parties that the existing practice for scheduling vacations under this section be continued.

Section 4. General Provisions

- A. Not more than eighty (80) hours of paid time may be credited toward accumulation of annual leave in any pay period.
- B. An Official Leave of Absence shall cause the aforementioned ten (10) years (Section 1.C. of the Annual Leave Provisions) of full-time County service to be postponed a number of calendar days equal to the Official Leave.
- C. When an employee's County service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply toward the required ten years (Annual Leave Provisions, Section 1.C.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- D. Additional annual leave earned during the period of annual leave may be taken consecutively.
- E. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- F. Calendared annual leave, including vacations, shall be scheduled for employees by their agency/department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G. No scheduled annual leave will be cancelled, except in cases of emergency.
- H. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid vacation from the County service except as a Fire Suppression Volunteer, Deputy Sheriff-Emergency Service, Election Board Officer or Election Night Help.

- I. The parties agree that the Annual Leave Plan shall not impact compensation, compensation earnable or final compensation as defined by the 1937 Retirement Act, above or below that to which employees would have been entitled prior to this agreement. If a court should decide that benefits under this plan, or analogous benefits, increase compensation, compensation earnable or final compensation above that to which employees would have been entitled prior to this agreement, the parties agree to meet and confer regarding employee/employer responsibility for funding said increase. Increased costs shall not be automatically assumed by the County.
- J. The parties will jointly monitor and review, on a regular basis, the effectiveness of the Annual Leave Plan to ensure that plan goals are met. The parties also acknowledge that in order to meet the goals of the Annual Leave Plan, refinements or changes may become necessary. If unanticipated consequences arise, the parties shall meet and attempt to mitigate those consequences. If it is found that the plan is not meeting objectives, it may be discontinued. However, neither party shall have the right to unilaterally modify this agreement as a result of discussions prior to the expiration of the overall Memorandum of Understanding between the parties.

Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee may request to be paid for accrued annual leave in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours.
- B. An employee separating from County service shall be paid in a lump sum payment for the unused annual leave balance as provided below:

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	160 hours maximum paid at 100%
3 but less than 10 years	240 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 320 hours are paid at 100%; the remaining balance, after the 320 hours are deducted, obtains cash value of 2% for each year of service, to a maximum of 50% i.e., 12 years of service equals 24% cash value for remaining balance; 25 or more years of service equals 50% cash value of the remaining balance.

- C. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service will be prorated.
- D. An employee separating from County service by way of paid County retirement may elect either to take annual leave as time off or be paid for his or her annual leave in a lump sum payment. The amount of annual leave which can be taken as time off shall be limited to the amount of hours the employee is eligible to receive at 100%. The remaining balance (up to the allowed maximum less the hours taken as time off) shall be paid in accordance with the annual leave payoff provisions.
- E. Any Annual Leave used during the final two (2) pay periods prior to paid County retirement will be counted towards the maximum paid at 100%.

ARTICLE VII HOLIDAYS

Section 1. Holidays Observed

A. County employees shall observe the following holidays:

- 2009: Independence Day, July 4
 Labor Day, September 7
 Columbus Day, October 12
 Veteran's Day, November 11
 Thanksgiving Day, November 26
 Day after Thanksgiving, November 27
 Christmas Day, December 25
- 2010: New Year's Day, January 1
 Martin Luther King, Jr.'s Birthday, January 18
 Lincoln's Birthday, February 12
 Washington's Birthday, February 15
 Memorial Day, May 31
 Independence Day, July 4
 Labor Day, September 6
 Columbus Day, October 11
 Veteran's Day, November 11
 Thanksgiving Day, November 25
 Day after Thanksgiving, November 26
 Christmas Day, December 25
- 2011: New Year's Day, January 1
 Martin Luther King, Jr.'s Birthday, January 17
 Lincoln's Birthday, February 12
 Washington's Birthday, February 21
 Memorial Day, May 30
 Independence Day, July 4
 Labor Day, September 5
 Columbus Day, October 10
 Veteran's Day, November 11
 Thanksgiving Day, November 24
 Day after Thanksgiving, November 25
 Christmas Day, December 25
- 2012: New Year's Day, January 1
 Martin Luther King, Jr.'s Birthday, January 16
 Lincoln's Birthday, February 12
 Washington's Birthday, February 20
 Memorial Day, May 28

B. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.

- C. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- D. When Christmas Day falls on a Sunday, the next day (Monday) shall be observed as the holiday unless an employee is required to work on December 25 as part of his or her normal work schedule. In such cases the employee may, with agency/department approval, observe the holiday on December 25. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday.
- E. When Christmas Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday unless an employee is required to work on December 25 as part of his or her normal work schedule. In such cases the employee may, with agency/department approval, observe the holiday on December 25. Under no circumstances shall an employee receive holiday compensation for both December 25 and the Friday immediately preceding.

Section 2. Eligibility for Holiday Pay

- A. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday in order to receive holiday pay. With County approval, compensatory time earned for working on a holiday or for a holiday falling on a regularly scheduled day off may be taken on the first scheduled working day after the holiday.
- B. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
- C. An employee who elects paid County retirement on a holiday shall be paid for the holiday.
- D. An employee who is terminating employment for reasons other than paid County retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- E. Only regular, limited-term and probationary employees shall be eligible for holiday pay.

Section 3. Holiday Pay

- A. On each of the holidays designated above, each full-time employee scheduled to work but permitted to take the day off shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work.
- B. On each of the holidays designated above, each part-time employee scheduled to work but permitted to take the day off shall receive pay

computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work.

C. Compensation for Holidays Falling on Scheduled Days Off

1. When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of compensatory time.
2. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek to a maximum of eight (8) hours of compensatory time.

D. Compensation for Work on Holidays

1. An employee who is required to work on Columbus Day, Veteran's Day, Day after Thanksgiving, Martin Luther King, Jr.'s Birthday, Lincoln's Birthday or Washington's Birthday and who meets the eligibility requirements contained herein shall receive his or her regular pay for each hour worked. Work performed on a holiday which is overtime as defined in Article I, Section 1.A., shall be compensated as provided in Article I, Section 2.C.1.
2. An employee who is required to work on Christmas Day, New Year's Day, Memorial Day, Independence Day, Labor Day or Thanksgiving Day shall receive pay computed at one and one-half (1 1/2) times the employee's basic hourly rate for the number of hours actually worked.
3. An employee who is required to work on a holiday and who meets the eligibility requirements contained herein shall receive, in addition to pay as provided in D.1. or 2. of this Section, compensatory time for each hour worked to a maximum of eight (8) hours.

E. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.

F. Full-time employees who are on a pay status during the pay period which includes March 1 each fiscal year during the term of this Agreement shall be credited with two (2) hours of compensatory time at the end of the pay period which includes that date. Part-time employees whose regularly assigned work schedule is at least twenty (20) hours per week shall, in like manner, earn and be credited with one (1) hour of compensatory time.

G. Compensatory time earned under the provisions of this Section may be granted as compensatory time off or paid for at the discretion of the County, as provided in Article I, Section 2.C.2. of this Agreement.

ARTICLE VIII REIMBURSEMENT PROGRAMS

Section 1. Mileage Reimbursement

- A. Subject to the current Vehicle Rules and Regulations established by the Board, an employee who is authorized to use a private automobile in the performance of duties shall be paid for each mile driven in the performance of his or her duties during each monthly period as provided below.
1. Effective through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
 2. Effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
- B. An employee who is required by the County to furnish a privately owned vehicle for the performance of his or her duties shall receive a minimum of ten (10) dollars in any month in which the actual mileage reimbursement would otherwise be less than ten (10) dollars. The minimum shall not apply in any month:
1. in which the employee has not actually worked eighty (80) hours;
 2. unless the employee claims the ten (10) dollar minimum and the agency/department certifies that the employee was required to use a privately-owned vehicle on County business.

Section 2. Personal Property Reimbursement

Employees shall, in proper cases, be reimbursed for the repair or replacement of personal property damaged in the line of duty without fault of the employee. The amount of reimbursement for articles of clothing shall be the depreciated value based on the age and condition of the article. Reimbursement for a watch shall be limited to the functional value of the watch.

Section 3. Tools

- A. Mechanics and Equipment Welders who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of seven hundred fifty (750) dollars per fiscal year. A maximum of one hundred twenty-five (125) dollars of the tool allowance may be used to reimburse employees who are required to wear safety work boots while performing the functions of their County duties. Eligible classes of mechanics who may receive the full tool reimbursement, and those classes eligible for the safety work boot reimbursement only, are as follows:

Tool
Reimbursement(\$750)

Automotive Mechanic
Body and Paint Mechanic
Equipment Mechanic
Equipment Welder
Mechanic Helper II
Marine Mechanic
Pumping Station Operator

Safety Work Boot
Reimbursement (\$125)

Airport Maintenance Worker I
Airport Maintenance Worker II
Automotive Service Attendant
Equipment Operator
Foundation Driller
Groundskeeper
Kennel Attendant I
Kennel Attendant II
Laborer
Landfill Equipment Operator I
Landfill Equipment Operator II
Senior Landfill Equipment Operator
Park Maintenance Worker
Parks Animal Keeper
Power Equipment Operator I
Power Equipment Operator II
Senior Power Equipment Operator
Public Works Maintenance Worker
Refuse Station Attendant
Senior Kennel Attendant
Traffic Paint Sprayer
Tree Trimmer
Vegetation/Pest Control Tech I
Vegetation/Pest Control Tech II

- B. The County shall replace or furnish insurance protection for employee owned trades and crafts tools required by the agency/department to be used in the performance of the employee's duties against loss sustained on County-owned or controlled property resulting from theft and arising out of the activities related to the employee's regularly assigned work duties provided that loss attributable to negligence of the employee shall not be covered. For each incident, a deductible of twenty-five (25) dollars will be applied to each employee's loss. The payment of claims under such coverage shall not be appealable under the grievance procedure.
- C. If stolen tools are recovered in an undamaged condition and replacement tools have been secured, the employee shall return to the County the replacement tools. When the replacement tools are returned to the County, the employee shall receive from the County a twenty-five (25) dollar cash refund in consideration of the twenty-five (25) dollar deductible. If replacement tools have not been secured, the employee shall return all reimbursement funds received from the County.

ARTICLE IX DISCIPLINARY ACTION

Section 1. Reprimand and Substandard Performance Evaluation

- A. No regular, limited-term or probationary employee shall receive a written reprimand or a substandard performance evaluation except for reasonable cause.
- B. A written reprimand or substandard performance evaluation (i.e., a rating of “does not meet performance objectives”) given to a regular, limited-term or probationary employee may be appealed through the grievance/appeal procedure. Such appeal shall be initiated at Step 1 of the grievance/appeal procedure.

Section 2. Emergency Suspensions of Five Days or Less

- A. In suspending a regular, limited-term or probationary employee for five (5) days or less when it is necessary to remove the employee from the work site immediately because of a potential emergency situation, including but not limited to, situations that may endanger life or property the employee shall:
 - 1. whenever practicable, be given an opportunity to respond to the proposed suspension to a designated agency/department representative with the authority to make an effective recommendation on the proposed suspension prior to the suspension becoming effective;
 - 2. be informed of the employee's right to representation in the response;
 - 3. be informed of the employee's right to appeal should the proposed suspension become final.
- B. In such emergency suspensions, the procedural requirements of Section 3., below, shall be complied with within ten (10) days following the effective date of the disciplinary action.

Section 3. Pre-Disciplinary Hearing for Suspension, Reduction or Discharge

- A. In suspending an employee in a non-emergency situation or in reducing a regular, limited-term or probationary employee for reasons of unsatisfactory performance or physical disability or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
 - 1. a description of the proposed action and its effective date(s);

2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
 3. copies of material on which the proposed action is based;
 4. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
 5. a statement of the employee's right to representation;
 6. a statement of the employee's right to appeal should such proposed action become final.
- B. Prior to the effective date of such suspension, reduction or discharge, an employee will be given an opportunity to respond either orally or in writing, at the employee's option, to a designated agency or department representative with the authority to make an effective recommendation on the proposed disciplinary action.
- C. An employee shall be given reasonable time off without loss of pay to attend a hearing pursuant to this Article.
- D. An employee may represent himself or herself or may be represented by the Union in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or cancelling the proposed disciplinary action prior to the effective date of such action except that such written notice may be given after suspensions pursuant to Section 2., above.
- F. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 4. and 5. of this Article.
- G. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 6. of this Article.

Section 4. Suspension

- A. No regular, limited-term or probationary employee shall be suspended except for reasonable cause.
- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of suspension shall be initiated at Step 2 of the grievance/appeal procedure, except for suspensions imposed by the Chief Executive Officer, which may be referred directly to arbitration.

Section 5. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance or physical disability except for reasonable cause.
- B. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of reduction for reasons of unsatisfactory performance or physical disability shall be initiated at the Step 2 of the grievance/appeal procedure; except for reductions imposed by the Chief Executive Officer which may be referred directly to arbitration.

Section 6. Discharge and Right of Appeal

- A. No regular or limited-term regular employee shall be discharged except for reasonable cause. No proposed discharge shall be effected unless approved by the Human Resources Director except for discharges imposed by the Chief Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. In accordance with the provisions of Article X, a discharge may be appealed directly to arbitration.

Section 7. Polygraph Examination

No employee shall be compelled to submit to a polygraph examination. No disciplinary action whatsoever shall be taken against an employee refusing to submit to a polygraph examination; nor shall any comment be anywhere recorded indicating that an employee offered to take, took or refused to take a polygraph examination unless otherwise agreed to in writing by the parties; nor shall any testimony or evidence of any kind regarding an employee's offer to take, refusal to take or the results of a polygraph examination be admissible in any proceeding pursuant to this Agreement, unless otherwise agreed to in writing by the parties.

Section 8. Investigatory Meetings

- A. An employee required to attend an investigatory meeting shall receive advance written notice of such meeting. Such notice shall include:
 - 1. A statement of the reasons for such meeting, including the subject matter and the fact that the meeting could lead to discipline, and
 - 2. A statement of the employee's right to representation.

- B. All investigatory meetings shall be scheduled to allow an employee a reasonable opportunity to obtain representation. Whenever practicable, such notice shall be given at least three (3) working days prior to the meeting.
- C. An employee may represent himself or herself or may be represented by AOCW in an investigatory meeting.

ARTICLE X GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

Section 1. Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances are:
 - 1. subjects involving the amendment or change of Board of Supervisors resolutions, ordinances or minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
 - 2. matters which have other means of appeal including but not limited to, matters which may be appealed through the Orange County Merit System Selection Rules and Appeals Procedure or to the Worker's Compensation Appeals Board;
 - 3. position classification;
 - 4. performance evaluations with a rating of "meets" or "exceeds" performance objectives.

Section 2. Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a County representative does not render a decision to the employee within the time limits, the employee may within seven (7) working days (based on a five [5] day workweek) appeal to the next step in the procedure. County holidays are not counted as working days.
- C. If it is the judgment of any management representative that he or she does not have the authority to resolve the grievance/appeal, he or she may refer it to the next step in the procedure. By mutual agreement of the County and the Union, any step of the procedure may be waived.
- D. The Human Resources Director may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, department-wide or County-wide basis in an emergency situation. The Union may appeal this decision to the Board of Supervisors.
- E. Upon written consent of the parties (i.e., the representatives of the County and the employee or his or her representative), the time limits at any step in the procedure may be extended.

- F. Every reasonable effort shall be made by the employee and the County to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.
- G. No claim shall be granted for retroactive adjustment of any grievance prior to thirty (30) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances, the County and the Union agree that the grievance files of the respective parties shall be confidential.

Section 3. Submission of Grievances

- A. Any employee or group of employees shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- B. If any two (2) or more employees have essentially the same grievance they may, and if requested by the County must, collectively present and pursue their grievance if they report to the same immediate supervisor.
- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the County, appoint one (1) or two (2) employees to speak for the collective group. To be considered a grievant in the group grievance, employees must affirmatively identify themselves as grievants when the grievance is initially filed.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by the Union in the formal grievance/appeal procedure.
- B. Authorized grievance/appeal representatives shall be the Shop Stewards as designated by the Union, and shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant. The Shop Stewards may represent the grievant/appellant at any step of the grievance procedure and may attend the grievance meeting. The Union shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Human Resources Director quarterly.
- C. The Union staff representatives may represent the employee at Steps 1 and 2 of the grievance/appeal procedure and in arbitration.
- D. If an employee chooses not to be represented by the Union, the Union may have staff representatives present at Step 2 of the grievance/appeal procedure and/or arbitration, and, if necessary, shall have the right to present the Union's interpretation of provisions of this Agreement at issue. Such presentation shall not include comments regarding the merits of the

grievance. The decision of the arbitrator in such a case shall not be precedent setting and shall not be admissible in any subsequent dispute between the County and the Union. The Union shall be given seven (7) calendar days notice of said meeting(s) when practicable.

Section 5. Time Off for Processing Grievances/Appeals

A. Reasonable time off without loss of pay shall be given to:

1. an employee who has a grievance/appeal in order to attend a meeting with his or her supervisor or other person with authority under the grievance/appeal procedure to resolve the matter or to meet with his or her grievance/appeal representative;
2. an authorized grievance/appeal representative in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority under the grievance/appeal procedure to resolve the grievance/appeal or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees or through examination of appropriate County records or locations relating to the grievance/appeal.

B. The following restrictions shall apply in all cases to activity authorized in Section 5.A., above:

1. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the grievance/appeal work is completed.
2. Neither the grievant/appellant nor the grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work if his or her supervisor determines that such interruption or absence will unduly interfere with the work of the unit in which the grievant/appellant or representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.
3. When an authorized grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the representative shall be permitted to do so provided that:
 - a. the representative checks in and checks out with the supervisor of the unit; and
 - b. such investigation does not unduly interfere with the work of the unit.

Section 6. Informal Discussion

If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively towards settlement.

Section 7. Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

Step 1: Agency/Department Head

An employee may formally submit a grievance to the agency/department head, or their designee, within fourteen (14) calendar days from the occurrence which gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within seven (7) calendar days after receipt of the written grievance, the agency/department head or his or her designee(s) shall meet with the grievant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant. The County shall, whenever practicable, notify the grievant if more than one (1) management representative shall attend the Step 1 grievance meeting.

Step 2: Human Resources Director

If the grievance/appeal is not settled under Step 1 and it concerns:

- a. an interpretation or an application of this Memorandum of Understanding;
- b. performance evaluation rating of "does not meet performance objectives;"
- c. deferral or denial of a merit increase, or a dispute about the number of steps granted;
- d. a written reprimand; or
- e. a probationary release alleging discrimination,

it may be appealed in writing to the Human Resources Director within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of suspension and/or a reduction ordered by an agency/department head or his or her designated representative may be submitted in writing at Step 2 within ten (10) calendar days after

receipt of the notice of suspension and/or reduction. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the Human Resources Director or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant. The decision of the Human Resources Director in B., C. and D., above, shall be final and binding and shall not be referable to arbitration.

Section 8. Referrals to Arbitration

A. Grievances

1. If a grievance is not resolved under Step 2, an arbitration request may be presented in writing to the Human Resources Director within seven (7) calendar days from the date a decision was rendered at Step 2. Within 30 days of the submission of the arbitration request, the arbitration hearing date shall be calendared, unless the parties agree to extend the time allowed for calendaring. If mediation is going to be held and the grievance is not settled through the mediation process, the arbitration hearing date shall be calendared within 30 days of the mediation, unless the parties agree to extend the time allowed for calendaring.
2. The parties shall either sign a joint issue submission statement or else execute and sign separate alternative issue statements after discussing the issue(s). In either case, the parties shall send copies of their joint or separate submission statement(s) to each other within fourteen (14) calendar days before the first scheduled date of the arbitration hearing.

B. Disciplinary Appeals

1. Submission Procedure

- a. If an appeal from suspension or reduction is not settled at Step 2, it may be presented to the Human Resources Director within seven (7) calendar days from the date the decision was rendered.
- b. An appeal from any discharge or from a suspension or reduction imposed by the Chief Executive Officer may be presented to the Human Resources Director within ten (10) calendar days from the date the action becomes final.
- c. All disciplinary appeals shall be signed by an employee or by a representative of the Union and shall be submitted in writing.
- d. The issues in all disciplinary appeals shall be: Was (employee's name) suspended/reduced/discharged for reasonable cause? If not, to what remedy is the appellant entitled under the provisions of Article X, Section 8. of the MOU?

- e. As soon as practicable after a suspension, reduction or discharge appeal is presented to the Human Resources Director, an arbitrator shall hear the appeal.

2. Findings of Facts and Remedies

An arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

a. All Disciplinary Actions

If the arbitrator finds that the disciplinary action was taken for reasonable cause, he or she shall sustain the action.

b. Suspensions/Reductions

If the action is modified or rescinded, the appellant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.

c. Discharges

1. If the arbitrator finds that the order of discharge should be modified, the appellant shall be restored to a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the appellant was removed from duty as determined by the arbitrator.
2. If the arbitrator finds that the order of discharge should be rescinded, the appellant shall be reinstated in a position in his or her former class and shall receive fringe benefits and pay (which shall not include overtime the employee could have worked) as determined by the arbitrator but not to exceed the level of fringe benefits and pay for all of the period of time he or she was removed from pay status.
3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the appellant received since the date of discharge.

C. Probationary Releases Alleging Discrimination

1. The issues to be submitted to the arbitrator in grievances filed pursuant to Article III, Section 1.C.3. shall be as follows and shall be submitted consistent with Section 8.A., above.

- a. Was the probationary release of (employee's name) in whole or in part the result of discrimination in violation of Article XVIII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and the Union?
- b. If so, what shall the remedy be under the provisions of Article X, Section 8.C.2., Findings of Facts and Remedies, of the Memorandum of Understanding between the County and the Union?

2. Findings of Facts and Remedies

- a. In the event the arbitrator finds no violation of Article XVIII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
- b. In the event the arbitrator finds a violation of Article XVIII, NONDISCRIMINATION, but also finds such violation was not a substantial cause of the employee's probationary release, the grievance shall be denied and the issue of remedy becomes moot.
- c. In the event the arbitrator finds a violation of Article XVIII, NONDISCRIMINATION, and also finds that the violation was a substantial cause of the probationary release of the employee, the arbitrator's award shall depend upon the significance of the violation and shall be in keeping with the following alternatives:
 1. The probationary release may be sustained.
 2. The employee may be reinstated in a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
 3. The employee may be reinstated in a position in his or her former class with full back pay and benefits for all of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.

D. General Provisions

1. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except when the appealing party solely alleges discrimination under Article XVIII, in which case the County shall bear the full cost. When the grievance involves both

discrimination and other arbitrable issues, the proper division of costs shall be determined by the arbitrator.

2. Grievance/Appeal hearings by an arbitrator shall be private.
3. Arbitration appeal hearings of suspensions of less than forty (40) hours shall be limited to two (2) days unless both parties agree that a longer hearing is necessary. Both parties shall be allotted equal time during arbitration hearings involving such suspensions. The arbitrator shall be advised of the two (2) day limitation at the beginning of the hearing. The two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the Chief Executive Officer.
4. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators shall be obtained from the California State Conciliation Service, the American Arbitration Association or some other agreed upon source and each party shall alternately strike one (1) name from the list until only one (1) name remains.
5. Upon written request by the opposing party in a pending hearing given at least twenty (20) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the request copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than ten (10) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such a request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.
6. An employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend and their scheduling shall be reasonable.
7. At the hearing, both the appealing employee and the County shall have the right to be heard and to present evidence. The following rules shall apply:
 - a. Oral evidence shall be taken only on oath or affirmation.
 - b. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing

witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify and to rebut the evidence against the witness. If the employee does not testify in his or her own behalf, the employee may be called and examined as if under cross-examination.

8. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
9. The County shall be allowed to have one (1) employee, who may be called upon to testify as a witness, present at the arbitration hearing at all times.
10. The parties agree to forego the use of briefs and transcripts whenever practicable.
11. The decision of the arbitrator shall be final and binding on all parties.
12. As an alternative to proceeding directly to arbitration after completion of Step 2, the parties may mutually agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Human Resources Director within seven (7) calendar days from the date a decision was rendered at Step 2. A request for mediation will automatically suspend the normal processing of a grievance until the mediation process is completed or the request is denied. The County shall respond to a request for mediation within thirty (30) calendar days. The mediation process shall be optional, and any opinion expressed by the mediator shall be informal and shall be considered advisory. Within seven (7) calendar days after completion of the mediation process or denial of a request for mediation, an arbitration request may be filed pursuant to Section 8.A. or B., above.

ARTICLE XI LAYOFF PROCEDURE

Section 1. General Provisions

- A. This procedure shall not apply to a temporary layoff of less than four (4) consecutive weeks.
- B. This procedure shall not apply to employees who have special or unique knowledges or skills which are of special value in the operation of the County business.
- C. When two (2) or more agencies/departments are consolidated or when one or more functions of one agency/department are transferred to another agency/department, employees in all involved agencies/departments shall be subject to layoff if one is necessary.
- D. Section 7, Reemployment Lists, and Section 8, Status on Reemployment, of this Article, shall not apply if the County has a written agreement with an employer, public or private, which guarantees the County employee an offer of reasonably comparable employment with the new employer who is taking over a function formerly performed by County employees and the new employer makes such an offer in writing to the employee.

Section 2. Order of Layoff

- A. When a reduction in the work force is necessary, employees in regular positions and those occupying limited-term positions at the direction of their agency/department head shall be laid off in an order based on consideration of:
 - 1. employment status,
 - 2. past performance,
 - 3. length of continuous service with the County.
- B. Layoffs shall be made by class within an agency/department except that:
 - 1. Where a class has a dual or multiple concept, the Human Resources Director may authorize a layoff by specialty within the class.
 - 2. Where appropriate, the Human Resources Director may authorize a layoff by division or smaller unit of an agency/department.

C. Within a class, employees shall be subject to layoff in the following order:

<u>Employment Status</u>	<u>Layoff Order</u>
First - Temporary Promotion	Determined by Agency/Department
Second - New Probationary	Determined by Agency/Department
Third - Regular/Promotional	Layoff Points Probationary

After all new probationary employees and employees on temporary promotion have been removed from a class within a layoff unit, the employee with the lowest number of layoff points shall be subject to layoff first. When two (2) or more employees have the same number of layoff points, the agency/department shall determine the order of layoff for these employees.

D. If a layoff is going to be made in a class from which an employee has left through a temporary promotion, the employee on temporary promotion shall be returned to his or her former class and shall be subject to layoff in accordance with this procedure.

E. AOCW may designate employees who are regular Union officers or shop stewards to receive special seniority for purposes of layoff. The number of employees so designated shall not exceed two (2) percent of the employees in the Representation Unit. Employees so designated shall receive two hundred sixty (260) layoff points in addition to layoff points computed pursuant to Section 3., below.

Section 3. Computation of Layoff Points

Seniority Points:

The equivalent of each year of full-time continuous service with the County shall earn two hundred sixty (260) seniority points.

The equivalent of each regularly scheduled full day of continuous service of a partial year shall earn one (1) seniority point.

Demerit Points:

For a rating of "Does Not Meet Performance Objectives" on the last "Performance Evaluation Report," for the class currently held by the employee, the employee shall earn two hundred and sixty (260) demerit points. Demerit points shall only be used in the currently held class of an employee. Demerit points shall not be applied to an employee seeking to enter a lower class through voluntary reduction in lieu of layoff.

Layoff Points:

Layoff points shall be computed by subtracting demerit points, if any, from seniority points.

Section 4. Notification of Employees

- A. Written notice of layoff shall be given to an employee or sent by mail to the last known mailing address at least fourteen (14) calendar days prior to the effective date of the layoff. Notices of layoff shall be served on employees personally at work whenever practicable.
- B. It is the intent of the parties that the number of layoff notices initially issued shall be limited to the number of positions by which the work force is intended to be reduced. Additional notices shall be issued as other employees become subject to layoff as a result of employees exercising reduction rights under Section 5.
- C. The notice of layoff shall include the reason for the layoff, the proposed effective date of the layoff, the employee's hire date, the employee's layoff points, a list of classes in the employee's occupational series within the layoff unit, the employee's rights under Sections 5. and 6. and the right of the employee to advise the County of any objection to the content of the layoff notice prior to the proposed effective date of the layoff.

Section 5. Voluntary Reduction in Lieu of Layoff

- A. A promotional probationary or regular employee who is subject to layoff may request a reduction to a lower class within the same occupational series in the layoff unit provided the employee possesses the minimum qualifications for the class and passes any required performance tests. The reduction shall be made if there is a vacant position in the layoff unit or an incumbent in the lower class in the layoff unit has fewer layoff points than the employee requesting the reduction. In the latter case, the incumbent in the lower class with the fewest number of layoff points shall be subject to layoff.
- B. 1. Employees who receive notice of layoff by personal service at work shall have until the end of their third regularly scheduled day of work following actual receipt of the notice to notify their agency/department in writing of their intent to exercise rights under this Section. Employees whose third regularly scheduled day of work is more than three (3) calendar days after receipt of the notice shall have three (3) calendar days, excluding weekends and holidays, to notify their agency/department of their intent to exercise rights under this Section; and where such notification is not in writing, the employee shall confirm the notification in writing as soon as practicable.

2. Employees who receive notice other than by personal service at work shall have five (5) calendar days, excluding weekends and holidays, following the date the person is personally served, or if service is made by mail, five (5) calendar days, excluding weekends and holidays, following date of proof of service by mail to notify their agency/department of their intent to exercise rights under this Section. Where such notification is not in writing, the employee shall confirm the notification in writing as soon as practicable.
3. Failure by an employee to respond to his or her agency/department pursuant to this Section shall result in a rebuttable presumption that the employee does not intend to exercise any right of reduction to a lower class and that the employee's hire date stated in the layoff notice was correct.
4. No employee action or inaction referred to in this Section shall be considered a waiver of an employee's right to file grievances concerning any matter within the scope of the grievance procedure.

Section 6. Voluntary Reduction from Classes Designated as Vulnerable to Layoff

An employee in a class designated by the County as vulnerable to layoff may request a voluntary reduction to any class provided the employee possesses the minimum qualifications and has passed any required performance tests for the class to which reduction is requested. Such employees shall be eligible for consideration for available positions in the class to which reduction is requested. If appointed, such an employee shall be placed on AGENCY/DEPARTMENTAL REINSTATEMENT LISTS pursuant to Section 7.A.3., below.

Section 7. Reemployment Lists

A. The following persons shall be placed on AGENCY/DEPARTMENTAL REINSTATEMENT LISTS as provided in 1., 2. and 3., below, in the order of their respective layoff points with the person having the largest number of layoff points listed first:

1. Persons Laid Off

The names of persons laid off shall be placed on an AGENCY/DEPARTMENTAL REINSTATEMENT LIST for each class in the occupational series at or below the level of the class from which laid off.

2. Persons Who Exercise Their Rights Under Section 5.

The names of persons who exercise their rights under Section 5. shall be placed on an AGENCY/DEPARTMENTAL REINSTATEMENT LIST for each class in the occupational series at or below the level of the

class from which reduced, excluding any classes at or below the level of the class currently held.

3. Persons Who Voluntarily Reduced Under the Provisions of Section 6.

The names of persons who were voluntarily reduced under the provisions of Section 6. shall be placed on an AGENCY/DEPARTMENTAL REINSTATEMENT LIST for the class from which reduced and for each class in the occupational series below the level of the class from which they voluntarily reduced, provided they request to be placed on such lists.

Positions to be filled shall be offered first to persons on the AGENCY/DEPARTMENTAL REINSTATEMENT LIST for that class, starting at the top of the list. If reinstatement is offered to a class other than that from which the person was laid off or reduced, such person must first meet the minimum qualifications and pass any required performance tests for that class.

- B. The names of persons laid off shall be placed on a COUNTY PREFERRED ELIGIBLE LIST for the class from which they were laid off and for any class from which they previously voluntarily reduced pursuant to Section 5., in the order of their layoff scores, going from highest to lowest. When one (1) vacant position in an agency/department, other than the agency/department from which the employee was laid off, is to be filled in that class, ten (10) names shall be certified from the COUNTY PREFERRED ELIGIBLE LIST, starting at the top. When more than one (1) vacant position in an agency/department, other than the agency/department from which the employee was laid off, is to be filled in that class, the number of names certified, starting at the top of the COUNTY PREFERRED ELIGIBLE LIST, shall be equal to twice the number of vacancies plus seven (7). If there is a tie among layoff points at the last name to be certified, all tied eligibles shall be certified. Eligibles certified from COUNTY PREFERRED ELIGIBLE LISTS shall be considered prior to eligibles certified from lower-ranking eligible lists.

Appointments shall be made only from eligibles certified pursuant to Section 7.B. Appointments need not be made in the order of layoff points; any eligible certified in accordance with this provision may be appointed to a vacant position.

- C. Names of persons placed on the AGENCY/DEPARTMENTAL REINSTATEMENT LIST and the COUNTY PREFERRED ELIGIBLE LIST shall remain on the lists for two (2) years, except that:
1. A person who on two (2) separate occasions rejects or fails to respond within five (5) calendar days to offers of employment in a particular class shall be removed from the lists for that class.

2. A person who on three (3) separate occasions declines referral for interviews in a particular class shall be removed from the lists for that class.
 3. An employee who upon retirement signs a statement electing not to be eligible for reemployment under this provision shall have his or her name excluded from the aforementioned lists.
- D. In the event two (2) or more agencies/departments are consolidated while AGENCY/DEPARTMENTAL REINSTATEMENT LISTS are in effect, such lists shall be combined and treated as one (1) list in accordance with the preceding provisions of this Section. When a transfer of one (1) or more functions of one (1) agency/department to another agency/department occurs, employees previously laid off from such function(s) who are on an AGENCY/DEPARTMENTAL REINSTATEMENT LIST for the agency/department losing such function(s), shall be removed from such list and shall be placed on a reinstatement list for the agency/department acquiring such function(s) and treated in accordance with the preceding provisions of this Section.
- E. Reemployment lists shall be available to the Union and affected employees upon reasonable request.

Section 8. Status on Reemployment

- A. An employee who has been laid off under the provisions of this Article and is subsequently reemployed in a regular or limited-term position within a two (2) year period from the date of his or her layoff shall receive the following considerations and benefits:
1. All sick leave and any unpaid annual leave remaining on the employee's account when laid off shall be restored.
 2. All seniority points held upon layoff shall be restored.
 3. All prior service shall be credited for the purpose of determining sick leave and vacation, and annual leave earning rates and service awards.
 4. The employee shall be placed in the salary range as if the employee had been on a Leave of Absence Without Pay.
 5. The probationary status of the employee shall be as if the employee had been on a Leave of Absence Without Pay except that a probation period shall be established as determined by Article III, Sections 1.B.1. and 1.B.2. if reemployment is in a higher class or an occupational series different from that employed in at the time of layoff.

- B. An employee who has voluntarily reduced under the provisions of this Article and is subsequently reemployed, within a two (2) year period from the date of reduction, in a regular or limited-term position in the class from which the employee reduced shall receive the following considerations:
1. The employee shall be placed in the salary range either as if the employee had been on a Leave of Absence Without Pay, or at the step on the salary range closest to, but which does not exceed, the employee's salary in the lower class, whichever is higher.
 2. The merit increase eligibility date shall be reestablished as determined by the Human Resources Director.
 3. The probationary status of the employee shall be as if the employee had been on a Leave of Absence.
- C. An employee who is voluntarily reduced under the provisions of this Article and is subsequently reemployed, within a two (2) year period from the date of reduction, in a class higher than the one from which the employee was reduced shall receive the following considerations:
1. The employee shall be deemed returned to the class from which the employee had been reduced as provided in B., above.
 2. The employee's salary, probation period and merit increase eligibility date shall be determined by treating the employee as though he or she is being promoted from such class.

ARTICLE XII ON-THE-JOB INJURY, WORKERS' COMPENSATION
SUPPLEMENT PAY

Section 1. Treatment of Industrial Injuries

Whenever an employee sustains an injury or disability arising out of and in the course of County employment and requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code Section 4600 et seq.

Section 2. Workers' Compensation Supplement Pay

- A. Whenever an employee is compelled to be absent from duty by reason of injury or disease arising out of and in the course of County employment, the employee shall receive workers' compensation supplement pay which, when added to the workers' compensation temporary disability benefit, shall equal eighty (80) percent of the employee's base salary for a period not to exceed one (1) year including holidays.
- B. Workers' compensation supplement pay shall begin the same day as the workers' compensation temporary disability benefits. Prior to qualifying for workers' compensation temporary disability benefits, an injured employee may, at his or her option, use any accrued annual leave, Sick Leave, compensatory time and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any annual leave, Sick Leave, compensatory time or vacation time previously accumulated by the employee. The employee shall not accrue annual leave, Sick Leave or vacation credit during the period in which the employee receives workers' compensation temporary disability benefits.
- D. When an injury is determined to be job related by the County or by the Workers' Compensation Appeals Board, eighty (80) percent of all annual leave, Sick Leave, compensatory time and/or vacation expended since the fourth (4th) day of disability shall be restored to the employee's account(s), except that if the injury required the employee's hospitalization or caused disability of more than fourteen (14) days, eighty (80) percent of all annual leave, Sick Leave, compensatory time and/or vacation expended since the first day of disability shall be restored to the employee's account(s).
- E. The merit increase eligibility date and probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits, except that the first fifteen (15) consecutive calendar days from the date of the injury shall be considered County service for merit increase eligibility and completion of the probation period.

- F. When an employee is no longer entitled to receive workers' compensation supplement pay, the employee may, at his or her option, use annual leave, Sick Leave, compensatory time, and vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph B., above.
- G. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of annual leave, Sick Leave and vacation earning rates.

Section 3. Exposure to Contagious Diseases

Whenever an employee is compelled by direction of a County-designated physician to be absent from duty due to an on-the-job exposure to a contagious disease, the employee shall receive full compensation for a period not to exceed eighty (80) working hours for a full-time employee or fourteen (14) calendar days for a part-time employee. If the absence extends beyond the applicable period, Sick Leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

Section 4. Injury to Paid Call Firefighter or Deputy Sheriff - Emergency Service

Whenever a Paid Call Firefighter or Deputy Sheriff - Emergency Service employed by the County is compelled to be absent from his or her regular employment due to injury arising out of and in the course of his or her employment as a Paid Call Firefighter or Deputy Sheriff - Emergency Service, he or she shall receive temporary disability and/or permanent disability benefits as set forth under California Labor Code, Section 4458 or 4458.2, as applicable.

ARTICLE XIII SAFETY

Section 1. General Provisions

Recognizing that a safe work environment is of substantial benefit to both the County and employees, the County and the Union mutually agree to the following safety program:

- A. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- B. The County shall make every reasonable effort to provide and maintain a safe place of employment. The Union shall urge all employees to perform their work in a safe manner. Employees shall be alert to unsafe practices, equipment and conditions and report any such unsafe practices, equipment or conditions to their immediate supervisors. Employees shall follow safe practices and obey reasonable safety rules during the hours of their employment.
- C. Any employee who either does not receive an answer to a safety-related question from his or her supervisor within three (3) days or receives an answer which the employee deems unsatisfactory may directly contact the County Safety Officer.
- D. Any employee who is directed to perform a task which the employee in good faith feels is unsafe may request an immediate investigation from the Safety Officer. During the period that the Safety Officer is conducting an investigation, the employee will be assigned to other work at no loss of earnings. If the Safety Officer concludes the task complained of is safe, the employee shall perform the work as instructed.
- E. The County shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- F. Wherever practicable, the County shall provide the necessary first aid kits in each location.
- G. The County shall provide first aid training for a sufficient number of employees at each work location.

Section 2. Safety Inspection

During inspection of County facilities conducted by the State Division of Industrial Safety for the purpose of determining compliance with the California OSHA requirements, an the Union designated employee shall be allowed to accompany the inspector while the inspector is in the employee's agency/department. The employee so designated shall suffer no loss of pay when this function is performed during the employee's regularly scheduled work hours.

Section 3. Abatement of Violations

In any instance in which the County is cited for a violation of CAL/OSHA, the County shall abate the cited hazard to health or safety within the abatement period required.

Section 4. Safety Representatives

- A. Safety Representatives may be selected by the Union to meet at least once a month, upon request, with a County designated supervisor or manager for each County facility to discuss matters affecting employee health and safety.
- B. The number of Safety Representatives at each facility shall be determined as follows:
 - 1. For facilities with fewer than one hundred (100) Bargaining Unit employees, one (1) Safety Representative may be selected.
 - 2. For facilities with one hundred (100) or more Bargaining Unit employees, one (1) Safety Representative may be selected for each one hundred (100) Bargaining Unit employees or for each fraction thereof.
- C. A Safety Representative who has received a safety or health complaint shall be given reasonable time off without loss of pay to gather appropriate information on such complaint provided that:
 - 1. The Safety Representative obtains permission from his or her supervisor prior to performing such work and reports back to the supervisor when the work is completed.
 - 2. The Safety Representative shall not leave his or her job to perform such work unless his or her supervisor determines that the employee's absence will not unduly interfere with the work of the unit in which the employee is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.
 - 3. When an authorized Safety Representative must go into another section or unit to gather information regarding a safety or health complaint, the Safety Representative shall be permitted to do so provided that:
 - a. the Safety Representative checks in and checks out with the supervisor of the unit; and
 - b. he or she does not unduly interfere with the work of the unit.

Section 5. Resolution of Safety or Health Complaints

If a safety or health complaint is not satisfactorily resolved, the Safety Representative may request to meet with the County Safety Officer to resolve the complaint. If the complaint is not resolved, a grievance may be filed at Step 2 of the grievance procedure.

ARTICLE XIV UNIFORMS AND SPECIAL EQUIPMENT

Section 1.

The County shall provide uniforms as follows:

- A. In the Transportation Division, the County will provide and launder at least one (1) uniform per regularly scheduled workday and, in addition, the County will provide and replace as needed, two (2) uniform jackets for regular and limited term employees who occupy positions in the following classes:

- Automotive Mechanic
- Automotive Service Attendant
- Body and Paint Mechanic
- Equipment Mechanic
- Equipment Welder
- Equipment Welder (Public Works Operations Division)
- Mechanic Helper II
- Transportation Utility Worker
- Vehicle Attendant

- B. Press Operators - The County will provide at least one (1) uniform per scheduled workday for regular and limited-term employees occupying Press Operator positions.

- C. In the Solid Waste Management Program, once each year the County will provide, but not launder, uniforms for regular or limited term employees of Landfill Operations, Field Support and Fee Collection Units who occupy positions in the following classes:

- Equipment Operator Trainee
- Landfill Equipment Operator I
- Landfill Equipment Operator II
- Senior Landfill Equipment Operator
- Equipment Operator
- Fee Station Attendant
- Fee Station Attendant Leadworker
- Laborer
- Refuse Station Attendant

Section 2.

- A. Except as modified in C., below, the County will provide, but not launder, uniforms for regular or limited term employees of the Public Works Operations/Construction Divisions of the Environmental Management Agency who occupy positions in the following classes:

Equipment Mechanic
Equipment Operator Trainee
Foundation Driller
Power Equipment Operator I
Power Equipment Operator II
Senior Power Equipment Operator
Laborer
Public Works Maintenance Worker
Pumping Station Operator
Traffic Paint Sprayer

- B. The pants shall be Levi's.
- C. The County will continue the current system of providing and/or laundering uniforms for employees of the Vegetation and Pest Control Unit.

Section 3.

The County will provide five (5) uniforms to Park Maintenance Workers and Groundskeepers in OC Community Resources.

Section 4.

The County will continue the current system of providing and/or laundering uniforms for all other groups of employees in the Unit who are currently provided uniforms.

Section 5.

The County will provide wildland fire boots for Equipment Operators who are called out in support of such fires.

ARTICLE XV UNION AND EMPLOYEE RIGHTS

Section 1. Employee Rights

The County shall not hinder or discipline an employee for exercising any rights or benefits provided in the Memorandum of Understanding.

Section 2. Payroll Deduction

- A. Membership dues of Union members in this Representation Unit and insurance premiums for such Union sponsored insurance programs as may be approved by the Board of Supervisors shall be deducted by the County from the pay warrants of such members. The County shall promptly transmit the dues and insurance premiums so deducted to the Union.
- B. The Union shall notify the County, in writing, as to the amount of dues uniformly required of all members of the Union and also the amount of insurance premiums required of employees who choose to participate in such programs.

Section 3. Employee Information Listing

Once each quarter, during the term of this Memorandum, the County shall provide the Union with a listing of all current employees in this Unit. Such file shall include employee name, job classification, agency/department, timekeeping location, salary range and step. The County shall also provide the Union with any other information needed pursuant to Article XIX, Section 4. The Union agrees to pay all costs necessary to providing such lists.

Section 4. Use of Bulletin Boards

Space shall be made available to the Union on agency/departmental bulletin boards within the Representation Unit provided such use does not interfere with the needs of the agency/department and material posted is not derogatory to the County, County employees or other employee organizations. Notice shall be dated and signed by the authorized representatives of the Union responsible for its issuance.

Section 5. Use of County Facilities

The Union may, with the approval of the Human Resources Director, hold meetings of their members on County property during nonworking hours provided request is made to the Human Resources Director as to the specific location and dates of the meeting prior to such meeting.

ARTICLE XVI MANAGEMENT RIGHTS

The County retains any rights, powers or authority it had prior to the signing of this Agreement, except as those rights are or may during the term of this Agreement be directly or indirectly affected by this Agreement or applicable law. Such rights shall include, by way of example but not limitation, the right to manage the County and direct the work force, including the right to hire, select, discipline, transfer and assign work. Nothing in this provision shall be construed to restrict grievances concerning this Agreement or to limit or waive the rights of the parties pursuant to law or this Agreement.

ARTICLE XVII NONDISCRIMINATION

Section 1.

The County and the Alliance of Orange County Workers agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination by reasons of physical handicap, marital status or medical condition (as defined under the Fair Employment Practices Act); or race, religion, color, sex, age, national origin or ancestry.

Section 2.

The Union shall not discriminate in membership or representation on any basis cited in Section 1. of this Article.

ARTICLE XVIII POSITION CLASSIFICATION

Section 1. The Establishment of New Classes

The County will provide the Union an informational copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with the Union in an attempt to reach agreement on the salary range and probation period for any such proposed class before submitting the class to the Board of Supervisors for adoption.

Section 2. Reclassification of a Position

- A. Sections 3. and 4. shall apply only to individual classification problems or studies involving small numbers of employees where the issue is a question of allocating a position to the appropriate class. Classification Maintenance Reviews are excluded from the provisions of Sections 3. and 4.
- B. Classification Maintenance Review is defined as 1) any study which involves all positions in a class or series except for a class or series with five (5) or fewer positions; 2) any study which involves all positions in an organizational unit which is greater than five (5) positions; 3) any study in which the class concept, minimum qualifications or salary relationship is at issue.
- C. By mutual agreement, the County may contract with a consultant to carry out Classification Maintenance Reviews. Provisions of Section 5. will apply.

Section 3. Procedure for Requesting Reclassification of a Position

- Step 1: An employee who believes his or her position is not properly classified may submit a written request to his or her agency/department head that a classification study be conducted. Requests shall state the reasons the employee believes the present class is not appropriate and which class the employee believes is appropriate based on the employee's present duties.
- Step 2: Appropriate agency/department response to an employee's request for reclassification includes, but is not limited to, denial of request or a recommendation that a classification study be conducted.
 - A. If the request is denied, the employee shall be given a written statement of the reasons for the denial. If management denies the request or fails to respond within seventy-five (75) calendar days, the employee may submit the request to the Union for consideration.
 - B. If a study of the employee's position is completed and the employee does not agree with the decision, the employee may submit the request to the Union.

Step 3: After receiving an employee request for study, the Union may forward to the Human Resources Director a written request that a classification study of the position be conducted or that the matter be referred to a consultant as provided in Section 5. Such requests are to be timely.

Step 4: The County shall determine when a study is justified. If the Union disagrees with this determination, the Union may request a consultant review as provided in Section 5.

A. If a study is justified, the County shall determine the form and timing of the study. The study shall be concluded as soon as practicable. Once concluded, the County shall notify the Union of the appropriate classification of the position.

B. If the Union disagrees with the position classification decision after completion of the study, the Union may request a consultant review as provided in Section 5.

Section 4. Limitations on Concurrent Studies

A. The County shall not be required to respond to a request for a classification study if the total number of position currently requested by the Union for reclassification studies plus the new request exceeds fifteen (15) positions.

Section 5. Review of Disputed Position Classification Decisions

A. If the Union does not agree with a position classification decision of the County after completion of Steps 3 and 4, above, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than twenty-five (25) positions may be referred to a consultant per fiscal year pursuant to this Article, except that any maintenance study done by a consultant shall not be included.

B. The consultant's review shall be documented on forms supplied by the County and used by the County for documenting its classification decisions.

C. The consultant shall have access to the organizational and classification files of the County and shall have the right to conduct the classification study in the manner the consultant deems most appropriate.

D. Any salary change for any employee resulting from a consultant's advisory recommendation shall be effective no sooner than the beginning of the pay period following the decision of the County at Step 4 of the procedure described in Section 3., above.

E. A consultant shall be chosen who has experience in conducting position classification analyses for local governmental agencies. The consultant will be chosen by a committee with an equal number of County and the Union

members. The cost of the consultant shall be shared equally by the County and the Union.

ARTICLE XIX INSURANCE

Section 1. Health Plans

- A. Except as modified in Section 1.B, C. and D., below, the County will pay ninety-five (95) percent of the employee's premium or seventy-five (75) percent of the total health plan premium, whichever is greater, for each full-time regular, limited-term or probationary employee and such employee's dependents.
- B. Except as modified in Section 1.C., below, the County will pay fifty (50) percent of the employee's premium or thirty-seven and one-half (37 1/2) percent of the employee's total health plan premium, whichever is greater, for each part-time regular, limited-term or probationary employee and such employee's dependents provided the employee's normal workweek consists of at least twenty (20) hours and the employee pays the balance of his/her premium. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
- C. The County will pay the full cost of employee and dependent coverage for two full-time employees married to each other. Two married full-time employees enrolled in the same health plan must be enrolled as employee married to employee.
- D. For employees who are on approved Family Leave pursuant to Article IV, Section 14. and applicable law, the County shall continue to pay health insurance premiums as provided in A., B. and C., above, to the extent required by applicable law.
- E. New eligible employees will be enrolled in the health plan of their selection effective the first day of the month following the first thirty (30) days of employment. New eligible full-time employees on or after June 20, 2008 failing to elect a plan will be enrolled in the Wellwise PPO Health Plan, employee only. New eligible full-time employees on or after January 1, 2009 failing to elect a plan will be enrolled in the Premier Wellwise PPO Health Plan, employee only. New eligible part-time employees failing to elect a health plan will be enrolled in Premier Sharewell Health Plan, employee only.
- F. Terminated employees will continue to be eligible for health plan benefits until the last day of the calendar month in which they terminate employment.
- G. Employees will be given the opportunity to change health plans at date of retirement.
- H. The County shall provide for an open enrollment period once each calendar year for employees, employees' dependents, and retirees to change their enrollment in a County health plan.

- I. Effective January 1, 2008, active employees were separately pooled from retirees for purposes of setting premiums for participation in County offered health plans.

Section 2. Retiree Medical Benefit

A. Retiree Medical Insurance Grant

1. Effective August 1, 1993, and as amended herein, the County implemented a Retiree Medical Insurance Program plan for employees who have retired from County service and who meet the eligibility requirements set forth in Section 3.B., below.
2. Upon paid County retirement, an eligible retiree shall receive a Plan Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered health insurance plan and/or Medicare premiums as provided below.
 - a. For eligible retirees, the Grant shall be an amount based on ten (10) dollars per month for each full year of service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County health plan premiums no later than the effective dates of such increases, not to exceed five (5) percent per year. Effective on January 1, 2008, the maximum Grant adjustment will be limited to three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
 - b. For eligible employees retiring after September 12, 2006, the Grant will be adjusted as follows:
 1. The Grant will be reduced by seven and one-half percent (7-1/2%) per year for each year of age the employee is less than age 60, based upon the employee's age on his or her retirement date. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.
 2. The Grant will be increased by seven and one-half percent (7-1/2%) per year for each year of age the employee is greater than age 60, based upon the employee's retirement date. For the purposes of the Grant increase, no years of age after age 70 will be considered. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.

3. The Grant for all eligible retirees (including retirees on disability) and surviving dependents will be reduced by fifty percent (50%) the first day of the month the retiree or surviving dependent becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B. For retirees and surviving dependents who have attained age 64 on or prior to September 12, 2006, the 50% reduction in the Grant will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B; however, the reduction will be no sooner than September 12, 2007. For eligible employees retiring after September 12, 2006, the 50% reduction will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B. This provision does not apply to a retiree or surviving dependent eligible for the Grant who has attained age 65 on or prior to September 12, 2006 and is eligible for both Medicare Part A (without paying a premium) and Medicare Part B.

c. All current employees who become eligible for a Retiree Medical Insurance Grant shall be provided a one (1) time opportunity of at least thirty (30) days to enroll in a County offered health plan. Should a retiree fail to enroll during the aforementioned thirty (30) day periods or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Retiree Medical Insurance Grant.

B. Eligibility Requirements for Retiree Medical Insurance Grant

1. Retiree must be actively retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System.
2. Retiree must have retired with at least ten (10) years of County service except as provided in C.2.a.,b.,c., and d. below:
 - a. A retiree who receives a service-connected disability retirement from the County shall be eligible for a Retiree Medical Insurance Grant equal to either ten (10) years of service or actual years of County service, whichever is greater.
 - b. A retiree with a minimum of five (5) years of County service who receives a non-service connected disability retirement shall be eligible for a Retiree Medical Insurance Grant based on actual years of County service. An employee with less than five (5) years of County service who receives a non-service connected

disability retirement shall not be eligible for a Retiree Medical Insurance Grant.

- c. A separated employee with less than ten (10) years of County service who has requested a service or non-service connected disability retirement shall not be eligible to receive either the Retiree Medical Insurance Grant or the cash distribution until a determination of disability status is made by the Board of Retirement.
 - d. A separated employee who receives a lump sum cash benefit pursuant to this Section shall be ineligible for the Retiree Medical Insurance Grant if, at a later date, the Board of Retirement grants a disability retirement.
3. All eligible retirees and enrolled dependents who are age sixty-five (65) or older must be enrolled in Medicare Part B in order to be eligible for the Retiree Medical Insurance Grant. All eligible retirees and dependents who are entitled to Medicare Part A coverage without a premium must be enrolled in Medicare Part A to be eligible to receive the Retiree Medical Insurance Grant.
4. Deferred Retirement
- a. An employee who, upon separation from County service, is eligible for paid retirement and elects deferred retirement must defer participation in the Retiree Medical Insurance Grant until such time as he or she becomes an active retiree.
 - b. An employee who is not eligible for paid retirement at the time he or she separates from County service and elects deferred retirement status shall not become eligible for participation in the Retiree Medical Insurance Grant.
5. For purposes of this Section, a full year of service shall mean those regular hours the employee worked for the County as a regular, limited-term and/or probationary employee. Two thousand eighty (2080) regular hours, exclusive of overtime, shall equal one (1) full year of service.

C. Employee Contribution

1. Effective July 23, 1993, all regular, limited-term and probationary employees shall contribute one (1) percent of their base salary, exclusive of overtime and premium pay, through payroll deduction to the County to be applied to the cost of medical insurance premiums.
2. An employee who separates from the County and does not qualify for a Retiree Medical Insurance Grant shall receive a cash amount equal

to one (1) percent of average base hourly rate for all qualifying hours. The average base hourly rate shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding separation from the County.

3. Receipt of the Retiree Medical Insurance Grant shall permanently revoke any claim to a cash benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Retiree Medical Insurance Grant. Receipt of the lump sum cash payment provided in this Section shall permanently revoke any claim to the Retiree Medical Insurance Grant.

D. Survivor Benefits

1. A surviving spouse who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the Retiree Medical Insurance Grant authorized for the retiree.
2. A surviving eligible retiree who qualifies for a monthly retirement allowance who was married to a retiree who was also eligible for a Retiree Medical Insurance Grant shall receive the survivor benefit described in D.1., above, or his or her own Retiree Medical Insurance Grant, whichever is greater. Such retiree shall not be eligible for both Retiree Medical Insurance Grants.

Section 3. Other Insurance Coverage

- A. The Union shall maintain a trust fund, approved by the State of California, for the sole purpose of providing benefits such as but not limited to dental, disability and life insurance for employees in this Representation Unit.
- B. The County shall, on a biweekly basis, forward twenty - six (26) cents per hour for all regular hours paid for all employees in this Representation Unit for deposit in said State-approved trust fund.

Effective June 23, 2006 the County shall, on a biweekly basis, forward thirty - six (36) cents per hour for all regular hours paid for all employees in this Representation Unit for deposit in said State-approved trust fund.

Effective January 2, 2009 the County shall, on a biweekly basis, forward forty - six (46) cents per hour for all regular hours paid for all employees in this Representation Unit for deposit in said State-approved trust fund.

- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by the Union to all employees in the Representation Unit on an equal basis regardless of membership status.

- D. The Union shall indemnify and hold the County harmless from any claims or legal actions brought under this Section. Notwithstanding the above, the County shall indemnify and hold AOCW, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action arising out of or as a result of the submission of any annual report required hereunder to be provided to the County by the trust fund or its trustees, provided only that such report(s) has been prepared consistent with generally accepted accounting principles.
- E. Effective November 2005, not more than once each contract year, upon written request, the trustees of the trust fund will provide the County with correspondence verifying the trust fund's compliance with applicable law during the previous contract year. Not more than once each contract year, the trustees shall also, upon written request, provide the County with the following:
1. Upon completion, a copy of the annual independent financial report of the trust fund by a Certified Public Accountant and Form 5500.
 2. The annual report shall include the following information:
 - a. The actual cost of benefits provided by the trust fund;
 - b. Member contributions to the cost of benefits provided by the trust fund;
 - c. Rate increases by carriers for the immediately preceding year of insured benefits provided through the trust fund, if applicable (or, if not included in the report, these shall be provided separately);
 - d. A summary of other trust fund expenditures; and
 - e. The beginning and ending cash balances of the trust fund.
 3. The annual report shall be provided to the County within thirty (30) days of either the County's written request or the report's completion, whichever shall last occur.
 4. A letter from the Certified Public Accountant for the trust fund verifying that the transactions of the trust fund during the preceding year have been reviewed, that payments have been made consistent with contractual agreements, and that required tax returns have been filed in accordance with applicable laws.

Section 4. Premium Only Plan

The County will administer a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted in the Internal Revenue Code. Under the plan, an employee's gross taxable salary will be reduced by the

amount of his or her share of the premium costs of County-provided health plan coverage.

ARTICLE XX FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

Section 1. Dependent Care Reimbursement Account (DCRA)

The County will administer a Dependent Care Reimbursement Account that will allow employees eligible to participate in a County health plan the opportunity to allocate a specified amount of biweekly pre-tax salary into the employee's dependent care reimbursement account to pay for dependent care expenses as permitted in the Internal Revenue Code.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow employees eligible to participate in a County health plan the opportunity to allocate a specified amount of biweekly pre-tax salary into the employee's health care reimbursement account to pay for health care expenses as permitted in the Internal Revenue Code. The annual amount an employee is eligible to allocate is five thousand (5,000) dollars.

ARTICLE XXI DEFERRED COMPENSATION

An employee in a regular position may, at his or her request, participate in the County's Deferred Compensation Plan.

ARTICLE XXII RETIREMENT

Section 1. Contribution Rates and Benefit Levels

- A. For employees hired on or before August 31, 1979 or such later date as established by the County:
1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Section 31676.12 of the Government Code for general members.
 2. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
 3. Members' normal contribution rates shall continue to be established as provided by Sections 31621.5 of the Government Code for general members.
 4. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- B. For employees hired on or after September 1, 1979, or such later date as established by the County:
1. General members will be provided a one-sixtieth (1/60) retirement benefit allowance as provided in Section 31676.1 of the Government Code.
 2. The retirement allowance of general members will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
 3. Members' normal contribution rates shall be as provided by Government Code Sections 31621 for general members.
 4. The County will adopt County contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- C. Except as set forth in Sections 1.E and 1.F below all employees, regardless of date of hire, who are general members of the retirement system, who retire on or after July 1, 2005, will be provided a one-fiftieth (1/50) retirement benefit calculated pursuant to Section 31676.19 of the Government Code. This retirement benefit formula is commonly known as the "2.7% at 55" benefit formula.

- D. Employee retirement contributions pursuant to the “2.7% at 55” benefit formula:
1. Effective with the pay period that commences on June 24, 2005, normal employee contribution rates to the retirement system, for pay periods during which a general member is covered by the “2.7% at 55” benefit formula, will be calculated pursuant to Section 31621.8 of the Government Code.
 2. Effective with the pay period that commences on June 24, 2005, general members in this bargaining unit will make an additional employee contribution to the retirement system. This contribution will be in addition to the normal employee contribution calculated under Section 31621.8 of the Government Code (or Section 31621 of the Government Code, if applicable), and will be in addition to the employee contribution required to help provide full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary. The additional employee contribution made under this paragraph shall be in accordance with, and for the purposes stated, in Section 31678.3(d) of the Government Code. This additional employee contribution shall continue beyond the expiration date of this MOU, for the purpose of amortizing, over a 30 year period, the cost of the retirement benefit improvement resulting from the adoption of the “2.7% at 55” benefit formula in Section 31676.19 of the Government Code.
 3. Members' normal and cost-of-living contributions will be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
 4. It is the intent of the parties that the implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County. After implementation of this benefit, the County and AOCW will annually review its costs including costs impacted by changes in investment earnings and evaluate whether any adjustments to employee contributions are necessary.
 5. The relative-ratio based methodology will be used during the term of the 2008 – 2009 contract to determine the additional employee contribution toward the 2.7% at 55 retirement benefit formula.
 6. Pursuant to Article XXII, Retirement, Section 1.D.4., adjustments to employee contributions will be considered during future negotiations.
- E. 1. Employees hired on or before the date the Board of Supervisors approves a resolution (which shall be after the Board of Supervisors is specifically authorized to take the action described in Article XXII, Retirement, Section 1.D., E. and F. under California state law as applicable to Orange County), (the “plan commencement date”), shall

(subject to the provisions of California state law as applicable to Orange County) have 180 calendar days from that date within which to elect one time only whether to terminate for future County service their pension calculation stated in Section 31676.19 of the Government Code (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula) for future County service.

2. In the event an employee hired on or before the plan commencement date fails to make an election during the period set forth in Section 1.E.1. above, the employee shall continue to be provided with the retirement pension calculation stated in Section 31676.19 of the Government Code (the "2.7% at 55" benefit formula) and shall make the employee retirement contributions described in Article XXII, Retirement, Section 1.C. and Section 1.D.
 3. In the event an employee hired on or before the plan commencement date elects the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula), the employee shall be eligible to participate in the Defined Contribution Retirement Plan (the "DC Plan") described in Article XXII, Retirement, Section 2 below.
 4. Effective with the pay period following the date an employee elects the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula), the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Section 31621 of the Government Code. The employee will also make the contributions described in Article XXII, Retirement, Section 1.D.(2)-(6).
 5. Employees who elect or are deemed to have elected the "1.62% at 65" retirement benefit formula shall be included in and subject to relative-ratio benefit calculations as described in 1.D.5 above, and shall be required to make such additional employee contributions toward the "2.7% at 55" retirement benefit formula as are determined pursuant to that methodology.
- F. 1. Employees hired after the plan commencement date, or who otherwise become eligible for the pension calculation stated in Section 31676.19 of the Government Code (the "2.7% at 55" benefit formula) after the plan commencement date, shall have forty-five (45) calendar days from the date of hire or other date of eligibility with the County (or other date of eligibility) to elect either the pension calculation stated in Section 31676.19 of the Government Code (the "2.7% at 55" benefit formula) or the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula). If an employee elects the pension calculation described in Section 31676.19, the

employee's retirement contribution shall be the contribution described in Article XXII, Retirement, Section 1.D.

2. In the event an employee hired after the plan commencement date fails to make an election during the period set forth in F.1. above, the employee will be deemed to have elected the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula). If an employee hired after the plan commencement date fails to make an election before their employment with the County is terminated, the employee will be deemed to have elected the pension calculation stated in Section 31676.01 of the Government Code ("1.62% at 65" benefit formula).
 3. After the employee makes an election or is deemed to have made an election as described in Section F.1 and F.2. above, the employee will make retroactive contributions through payroll deductions, equal to the contributions that would have been made from the employee's hire date, for the appropriate election as described in Section F.1 and Section D.(1)-(6) and Section G. Employees who have elected, or who have been deemed to have elected the benefit described in Government Code Section 31676.01, will make the contributions described in Article XXII, Retirement, Section 1.D.(2)-(6). County contributions to the DC plan, for employees whose benefit is described in Government Code Section 31676.01, are not retroactive to the employee's date of hire and will be calculated from the date that the employee has made an election or deemed to have made an election of the benefit described in Government Code Section 31676.01.
 4. In the event an employee hired after the plan commencement date elects, or is deemed to have elected, the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula), the employee shall be eligible to participate in the DC Plan described in Section 2. below.
- G. Effective with the pay period following the date an employee elects, or is deemed to have elected, the pension calculation stated in Section 31676.01 of the Government Code (the "1.62% at 65" benefit formula), the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Section 31621 of the Government Code. Employees who have elected, or who have been deemed to have elected the benefit described in Government Code Section 31676.01, will make the contributions described in Article XXII, Retirement, Section 1.D.(2)-(6).
- H. 1. Except as otherwise provided below, if legislation is not enacted into law by the California state legislature on or before March 1, 2010, authorizing the County of Orange to take the actions described Article XXII, Retirement, Section 1.E. and 1.F., any employee hired after March 1, 2010, shall be deemed to have elected and will only be eligible for the pension calculation stated in Section 31676.01 of the

Government Code (the “1.62% at 65” benefit formula), and the employee shall be eligible to participate in the DC Plan described in Section 2. below. Employees whose benefit is described in the retirement formula contained in 31676.01 will make the normal employee contribution calculated under Section 31621 of the Government Code. Employees whose benefit is described in the retirement formula contained in 31676.01 will also make the contributions described in Article XXII, Retirement, Section 1.D.(2)-(6). Notwithstanding the foregoing, the legislation referred to in this subsection shall not be required to authorize members electing the pension calculation in Section 31676.01 (the “1.62% at 65” benefit formula) to pay a portion of the contributions attributable to past service liability under Article XXII, Retirement, Section 1.D.

2. Irrespective of whether employees whose benefit is described in 31676.01 of the Government Code (the “1.62% at 65” formula), are required or permitted to make the contributions described in Article XXII, Retirement, Section 1.D.(2)-(6), it is still the intent of the parties that the implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County. Employee participants who are covered by the “2.7% at 55” benefit described in Government Code Section 31676.19 continue to be responsible for the entire cost of the retirement benefit improvement resulting from the adoption of the “2.7% at 55” benefit formula in Section 31676.19 of the Government Code.

Section 2. Defined Contribution Retirement Plan

- A. Beginning on the plan commencement date, as defined in E.1 above, the County will administer a qualified DC Plan available to those employees who have elected or who have been deemed to have elected the additional retirement contribution stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula). These employees will be permitted to make voluntary contributions to a County defined contribution plan. The County will maintain the DC Plan and a County defined contribution plan and it shall require the County to make matching contributions as described in 2.B. below for employees whose benefit is described in Government Code section 31676.01 and who make contributions to a County Defined Contribution plan.
- B. During the first one-year period following the plan commencement date, the County will contribute a biweekly amount to the DC Plan for an eligible employee equal to the biweekly amount that the employee contributes to a County defined contribution plan, not to exceed two (2) percent of the employee’s base salary (the “match”). During the second year and in subsequent years following the plan commencement date, the County will contribute to the DC Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to a County defined contribution plan. The County contribution to the DC Plan

shall not exceed two (2) percent of the employee's base salary, unless the Board of Supervisors authorizes additional County contributions permitted under Article XXII, Retirement, Section 2.(D). County contributions to the DC Plan shall vest on behalf of the participant after that participant has been continuously employed by the County for a period of five (5) years. For this purpose, one year shall be equal to 2080 paid hours of service, exclusive of overtime.

- C. Employee contributions to a county defined contribution plan and the County contributions to the DC Plan shall be subject to contribution limits imposed by the Internal Revenue Service. In no event shall the County be required to pay any portion of the matching contributions that would cause the employee to exceed applicable Internal Revenue Service contribution limits.
- D. The County shall form a study group. AOCW may designate one member to be part of the study group. The purpose of the study group shall be to develop and recommend to the Board of Supervisors criteria to be used to establish the County's future matching contributions to the DC Plan as described in Section 2.B. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to the DC Plan be less than fifty (50) percent of an employee's biweekly contribution to a county defined contribution plan, nor shall the maximum amount of the County's matching contribution to the DC Plan be less than two (2) percent of an employee's base salary.

Section 3. Tax-Deferred Retirement Plan

The County will administer an approved tax-deferred retirement plan which will allow employees to reduce their taxable gross income by the amount of their retirement contribution. The plan shall be in effect for the term of this Memorandum of Understanding subject to approval by the Internal Revenue Service.

ARTICLE XXIII SEPARABILITY

In the event that any provisions of this Memorandum are declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire Memorandum, it being the express understanding of the parties hereto that all other provisions not declared invalid shall remain in full force and effect.

ARTICLE XXIV RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Alliance of Orange County Workers is the Exclusively Recognized Employee Organization for the Operations and Service Maintenance Unit for classes in effect on June 19, 2009. Said classes are listed in Appendix A.

ARTICLE XXV MAINTENANCE OF MEMBERSHIP

Any employee in this Union who has authorized Union deductions on the effective date of this Agreement, or at any time subsequent to the effective date of this Agreement, shall continue to have such dues deductions made by the County during the term of this Agreement, provided that any employee hired before June 30, 2001, in the Unit may terminate such Union dues by submitting a completed and signed payroll deduction cancellation form to the Auditor-Controller during the period of December 5, 2011 through December 16, 2011.

ARTICLE XXVI STRIKES

During the life of this Agreement, no work stoppages, strikes, slowdowns or other concerted employee actions that can be interpreted as job actions shall be caused or sanctioned by the Union.

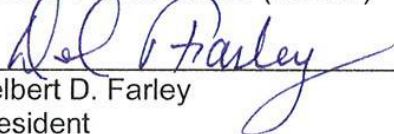
ARTICLE XXVII SALARY REOPENER


The parties agree that there will be a salary reopener in 2010 and 2011 and that these discussions will include salary and merit increases. Discussions will begin on or about May 1 of each year.


MEMORANDUM OF UNDERSTANDING
2009 -2012
COUNTY OF ORANGE


ALLIANCE OF ORANGE COUNTY WORKERS
FOR THE
OPERATIONS AND SERVICE MAINTENANCE UNIT

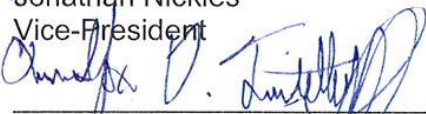
ALLIANCE OF ORANGE
COUNTY WORKERS (AOCW)

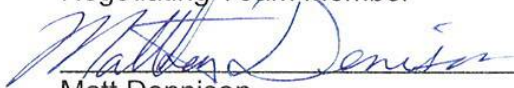

Delbert D. Farley
President


James G. Harker
General Counsel



Tom Hasty
Field Representative


Jonathan Nickles
Vice-President


Danny Tuitelepaga
Negotiating Team Member

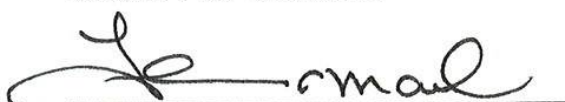

Matt Dennison
Negotiating Team Member


Jeff Eiler
Negotiating Team Member



Tommy Gallegos
Negotiating Team Member

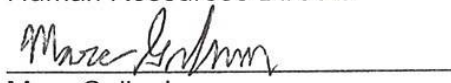
AUGUST 20, 2009
Date


COUNTY OF ORANGE

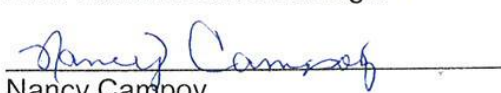


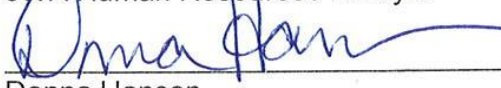
Thomas G. Mauk
County Executive Officer
Chief Negotiator



Carl H. Crown
Human Resources Director


Marc Gallonio
HRD Human Resources Manager
Lead Negotiator


Abigel Hernandez
HRD Administrative Manager


Nancy Campoy
JWA Human Resources Analyst


Donna Hanson
OCCR Human Resources Manager


Yvonne Healy
OCWR Human Resources Analyst

October 20, 2009
Date

OPERATIONS AND SERVICE MAINTENANCE UNIT
MEMORANDUM OF UNDERSTANDING
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APPENDIX A

Classes included in the Operations and Service Maintenance Unit as of June 19, 2009:

3550	Airport Maintenance Worker I
3551	Airport Maintenance Worker II
3530	Assistant Power Equipment Operator
3318	Automotive Mechanic
3312	Automotive Service Attendant
1126	Bindery Technician
1128	Bindery Technician Leadworker
1125	Bindery Technician Trainee
3148	Body and Paint Mechanic
1427	Communications Utility Worker
1439	Custodial Worker
1440	Custodian
3324	Equipment Mechanic
3526	Equipment Operator
3527	Equipment Operator Trainee
3152	Equipment Welder
1418	Fee Station Attendant
1419	Fee Station Attendant Leadworker
3534	Foundation Driller
3005	Groundskeeper
5902	Kennel Attendant I
5903	Kennel Attendant II
3505	Laborer
3561	Landfill Equipment Operator I
3562	Landfill Equipment Operator II
3344	Marine Mechanic
3341	Marine Service Attendant
3307	Mechanic Helper II
1027	Mover
1111	Offset Press Operator Leadworker
1105	Offset Press Operator Trainee I
1106	Offset Press Operator Trainee II
1110	Offset Press Operator
3025	Park Maintenance Worker
3029	Parking Meter Technician
3027	Parks Animal Keeper
3535	Power Equipment Operator I
3538	Power Equipment Operator II
3541	Senior Power Equipment Operator
3542	Power Equipment Operator Trainee
3513	Public Works Maintenance Worker
3521	Pumping Station Operator
1416	Refuse Station Attendant
5904	Senior Kennel Attendant

3563 Senior Landfill Equipment Operator
3144 Sign Maker
3525 Traffic Paint Sprayer
3045 Tree Trimmer
3558 Vegetation and Pest Control Technician I
3559 Vegetation and Pest Control Technician II
1424 Vehicle Attendant

APPENDIX B

July 1, 2008

AOCW AND COUNTY OF ORANGE Catastrophic Leave Program

1. Effective the first pay period of Fiscal Year 2008-2009 (July 4, 2008), a bona fide Catastrophic Leave program will be established for serious medical conditions and major disasters defined by Federal law;
2. To qualify under the bona fide Catastrophic Leave program for a serious medical condition, employees will be required to sign a form stating that they or their eligible family member(s) have a qualifying serious medical condition which will require them to be on unpaid leave for at least 14 calendar days;
 - a. A serious medical condition will be defined by the Family Medical Leave Act;
 - b. Eligible family member(s) will be defined by the Operations and Service Maintenance Unit and County of Orange MOU Use of Annual Leave for Illness or Injury provisions;
3. The County shall administer any catastrophic leave requests pertaining to a major disaster defined by Federal law with the creation and administration of a County leave pool;
4. A non-bona fide Catastrophic Leave program will remain in effect for individuals to donate hours for "other serious circumstances". It is understood that the donor would be taxed for any contributions under these circumstances.
 - a. Employees will be required to be on unpaid leave of absence for at least 14 calendar days and to disclose the reason for catastrophic leave under "other serious circumstances";
5. Applicable to the bona fide and non-bona fide leave plans, the minimum amount of time that can be donated is two (2) hours and the maximum amount of time that can be donated will be increased from the current eight (8) hours to twenty-four (24) hours; employees may donate any combination of annual leave, comp time, PIP time or vacation time up to the maximum of 24 hours; sick leave may not be donated.
6. Applicable to the bona fide and non-bona fide leave plans, donated hours will generally be processed on a "first-come, first-used" basis;
7. Applicable to the bona fide and non-bona fide leave plans, hours donated will be processed in 80 hour increments for the duration of the employee's Catastrophic Leave; once the Catastrophic Leave period ends, any remaining hours donated will not be processed and will be returned to the donor; donated hours will be added to annual leave or vacation, whichever is applicable.

8. Applicable to the bona fide and non-bona fide leave plans, hours donated will be transferred on a straight hour to hour basis. The current conversion formula will be eliminated;
9. Applicable to the bona fide and non-bona fide leave plans, all County agencies and departments shall be required to distribute all Catastrophic Leave requests on a county-wide basis;
10. Any donated hours which have been processed for eligible employees prior to July 4, 2008 will remain on the employee's books under the terms of the former Catastrophic Leave program.
11. Should an employee receive Catastrophic Leave donations while a Work Comp claim is pending, and the Work Comp is subsequently approved, all donated hours will be returned to the donor(s).
12. The County and AOCW agree to a re-opener twelve (12) months prior to the go-live date of the new HR/Payroll system to discuss the creation of a "pool" of time to be available for eligible employees.

AOCW

Del Forsley President

Tommy Gallego Sargent at arms

Amelia B. Smith Recording Secretary

Kathleen Sage - Honorary, Cozi, SAGE, APC

Jonathan P. Nielsen Vice President

Jeffrey Eiler
Steve Fairbank

7-2-08
Date

County of Orange

Carl H. Crown

Carl H. Crown
Human Resources Director

Shelley Carlucci
Shelley Carlucci
Assistant Human Resources Director

7-2-08
Date

Maria Robinson
Human Resources Services Manager