

# ORANGE COUNTY BOARD OF SUPERVISORS

## Agenda Revisions and Supplementals

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

*No new supplemental items will be added to the agenda following close of business on Friday.*

October 22, 2019

### PRESENTATION (9:00 A.M.)

Chairwoman Bartlett will be presenting a certificate to United Way announcing kick-off of 2019-20 United Way Campaign

Vice Chair Steel will be presenting a resolution to Orange County's Pacific Symphony

### CONSENT

1. Revised Title to read:  
**OC Community Resources** - Orange County Development Board - Reappoint Lauray Holland, Newport Beach and John Luker, Santa Ana, to complete terms ending 12/31/19 and reappoint effective 1/1/20 - 12/31/22; Robert Bunyan, Mission Viejo; Tod Sword, Redondo Beach; Alireza Jazayeri, Irvine; Ernesto Medrano, Anaheim; Douglas Mangione, Capistrano Beach and Dr. Tod Burnett, Irvine, to complete terms ending 12/31/20; Barbara Mason, Huntington Beach; Dr. Gary Matkin, Irvine; Robert Claudio, Yorba Linda; Trung Le, La Palma and Michael Ruane, Corona del Mar, to complete terms ending 12/31/21; appoint Natalie Alvarez, Newport Coast; Teraylan Hollingsworth, Anaheim and Gloria Alvarado, Santa Ana, to complete terms ending 12/31/19 and reappoint effective 1/1/20 - 12/31/22; Eric Codorniz, Aliso Viejo, to complete term ending 12/31/20; Anna Lukes, Laguna Hills; Brenyale Toomer-Byas, Irvine; Jesse Ben-Ron, Anaheim, and David Han, Buena Park, to complete terms ending 12/31/21; *approve submission of Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification program year 2019-21 - All Districts*

### DISCUSSION

13. Continued to 11/19/19, 9:30 a.m.
27. Revised Title to read:  
**County Executive Office** - Approve grant applications/awards submitted by *OC Public Works, John Wayne Airport and OC Waste and Recycling Director and retroactive grant applications/awards submitted by OC Community Resources and Sheriff-Coroner* in 10/22/19 grant report and other actions as recommended; *adopt resolution authorizing OC Waste & Recycling or designee to submit and execute applications, related documents and amendments to State Department of Resources Recycling and Recovery (CalRecycle) for Organics Grant Program Cycle 4 (Greenhouse Gas Reduction Fund, FY 2018-19 and FY 2019-20) - All Districts*

**THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:**

Items: 1 and 27

**REVISIONS AND SUPPLEMENTALS TO OCTOBER 22, 2019 AGENDA - PAGE 1 OF 2**

# ORANGE COUNTY BOARD OF SUPERVISORS

## Agenda Revisions and Supplementals

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*No new supplemental items will be added to the agenda following close of business on Friday.*

### Supplemental Item(s)

- S31A. **Vice Chair Steel** - Orange County Mental Health Board - Appoint Nita Tewari, Newport Beach, to complete term ending 12/4/21
- S31B. **Vice Chair Steel** - Community Action Partnership of Orange County - Appoint Nimusha Punnen Jacob, Huntington Beach, for term concurrent with 2<sup>nd</sup> District Supervisor's term of office
- S31C. **County Executive Office** - Approve and adopt 2019-2023 Memoranda of Understanding with Orange County Employees Association for Community Services, County General, Healthcare Professional, Office Services, Sheriff's Special Officer and Supervisory Management Units - All Districts
- S31D. **County Executive Office** - Approve and adopt 2019-2023 Memorandum of Understanding with Association of County Law Enforcement Managers for Law Enforcement Management Unit, 6/21/19 – 6/29/23 – All Districts
- S31E. **County Counsel** - Consider first reading of "An Ordinance of the County of Orange, California, Amending Section 1-6-7 of Division 6 of Title 1 of the Codified Ordinances of the County of Orange"; and set second reading and adoption for 11/5/19, 9:30 a.m. – All Districts *(4/5 vote of the members present)*
- SCS2. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):  
Name of Case: Orange County Catholic Worker, et al. v. County of Orange, et al., United States District Court Case No. 8:18-cv-00155-DOC-(JDEx). David Ramirez, et al. v. County of Orange, United States District Court Case No. 8:18-cv-0220-DOC-(KESx)
- SCS3. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTIN LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):  
Name of Case: Huong Hue Tran, Thomas Minh Nguyen v. County of Orange, et al. District Court Case No.: 8:18-cv-00969-AG-PJW



# Revision to ASR and/or Attachments

CLERK OF THE BOARD OF SUPERVISORS  
ORANGE COUNTY  
BOARD OF SUPERVISORS  
2019 OCT 17 PM 1:17

RECEIVED

**Date:** October 16, 2019  
**To:** Clerk of the Board of Supervisors  
**CC:** County Executive Office *McGuire*  
**From:** Dylan Wright, Director, OC Community Resources *Dylan Wright*  
**Re:** ASR Control #: 19-000987, Meeting Date 10/22/19, Item No. # 1  
**Subject:** Orange County Development Board Appointments and Reappointments

## Explanation:

Revisions are being requested at this time due to mandated requirements of the Workforce Innovation and Opportunity Act for Local Area Boards to be recertified every two years. OC Community Resources/OC Community Services needed additional time to make modifications prior to approval and authorization to submit the Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification for Program Year 2019-21.

## Revised Recommended Action(s)

Please add the following Recommended Actions

8. Approve and Authorize the Chairwoman of the Board of Supervisors and the Chair of the Orange County Development Board to sign all documents required by the State necessary for submission of the Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21.
9. Authorize OC Community Services staff to make necessary revisions to the Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 as requested by the State Board and/or the California State Employment Development Department.

## Make modifications to the:

Subject     Background Information     Summary     Financial Impact

**Subject:**

Orange County Development Board Appointments, and Reappointments and Application for Local Area Designation and Recertification

**Summary:**

Approval of the recommended reappointments and appointments to the Orange County Development Board and submission of the Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 for the Orange County Development Board will support compliance with legislative mandates.

**Background Information:**

Justification for the Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21

WIOA requires Local Workforce Areas to apply for initial designation and approval by the Governor to be designated as a Local Area. Local Workforce Areas must perform successfully and sustain fiscal integrity. After the period for which a Local Area was initially designated, WIOA calls for a subsequent designation process and requires the Governor to approve a request for subsequent designation from a Local Area if the area performed successfully, sustained fiscal integrity, and engaged in the regional planning process. WIOA provides criteria for the recertification of Local Workforce Development Boards. Specifically, it requires the Governor to certify one Local Workforce Development Boards for each Local Workforce Area in the state once every two years. In order to be recertified, the Local Workforce Development Boards must have met the WIOA membership requirements, met or exceeded performance accountability measures and achieved sustained fiscal integrity. Subsequent Designation and Recertification of Local Workforce Development Boards will be effective July 1, 2019, for a two-year period, ending June 30, 2021.

Orange County has identified obstacles with some local workforce development activities and is diligently and actively working closely with the State of California Employment Development Department and the California Workforce Development Board to resolve all observations requiring course correction.

It is the goal of OCDB through the Community Investment Division (CID) to incorporate the necessary quality controls to ensure that the Local Area sustains fiscal integrity, performs successfully and engages in regional planning to support the economic and workforce needs of Orange County. OCDB through the CID will continue to incorporate training on fiscal and program oversight and revising local polices to safeguard the integrity of programs.

Revised Attachments (attach revised attachment(s) and redlined copy(s))

October 17, 2019

**Attachment X – Workforce Directive WSD18-14**

**Attachment Y – Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21**

## SUBSEQUENT LOCAL AREA DESIGNATION AND LOCAL BOARD RECERTIFICATION

### EXECUTIVE SUMMARY

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This policy provides the guidance and establishes the procedures regarding subsequent designation of Local Workforce Development Areas (Local Area) and recertification of Local Workforce Development Boards (Local Board) under the *Workforce Innovation and Opportunity Act* (WIOA), and is effective on the date of issuance.

This policy applies to all current Local Areas interested in receiving subsequent designation as a Local Area and Local Board recertification under WIOA.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic***.

This Directive finalizes Workforce Services Draft Directive *Subsequent Designation and Local Board Certification* (WSDD-196), issued for comment on February 26, 2019. The Workforce Development Community submitted no comments during the draft comment period.

This policy supersedes Workforce Services Directive *Local Board Recertification* (WSD15-13), dated January 22, 2016. Retain this Directive until further notice.

### REFERENCES

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- *WIOA* (Public Law 113-128) Sections 106 and 107
- Title 2 *Code of Federal Regulations (CFR)* Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;” (Uniform Guidance)
- Title 2 CFR Part 2900: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Department of Labor [DOL] Exceptions)
- *California Unemployment Insurance Code* Section 14202

*The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.*

- Workforce Services Directive WSD16-07, Subject: *Regional and Local Planning Guidance for 2017-2020* (September 16, 2016)
- WSD15-13, Subject: *Local Board Recertification* (January 22, 2016)
- WSD14-10, Subject: *Initial Local Area Designation and Local Board Certification under WIOA* (February 20, 2015)

## BACKGROUND

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The WIOA Sections 106 and 107 provide the criteria for subsequent designation of Local Areas and recertification of Local Boards. Specifically, the WIOA Section 106 requires the Governor to designate Local Areas within the state, while Section 107 requires the Governor to certify one Local Board for each Local Area in the state that has received initial designation status. The California Workforce Development Board (CWDB) and the Employment Development Department (EDD), acting under the authority of the Governor, established policies and procedures and completed the initial designation of Local Areas in June 2015, which were effective for Program Years (PY) 2016-2018 and completed Local Board recertification in June 2016.

WIOA Section 106 required Local Areas to apply for initial designation and the Governor to approve requests for Local Areas that were designated as a Local Area under *Workforce Investment Act*, had performed successfully, and had sustained fiscal integrity. After the period that a Local Area was initially designated, WIOA Section 106 calls for a *subsequent designation* process and requires the Governor to approve a request for any subsequent designation from a Local Area, if the area performed successfully, sustained fiscal integrity, and engaged in the regional planning process as described in Section 106 (c)(1).

WIOA Section 107 provides criteria for the recertification of Local Boards. Specifically, it requires the Governor to certify one Local Board for each Local Area in the state once every two years. It states that, in order to be recertified, the Local Board must have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity.

Subsequent Designation and Recertification of Local Boards will be effective July 1, 2019 for a two-year period, ending June 30, 2021.

## POLICY AND PROCEDURES

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### Definitions

*Performed Successfully* – For the purposes of subsequent designation for PY 2019-20 and PY 2020-21, the definition of performed successfully is defined as a Local Area that has

successfully negotiated PY 18-19 and PY 19-20 performance goals within their designated RPU. For any subsequent designation and recertification request received from a Local Area after PY 20-21, that Local Area's WIOA Title I Adult, Dislocated Worker, and Youth performance goals must be successfully negotiated within their RPU and must meet or exceed negotiated performance for the two previous program years. Failure to negotiate regionally or perform successfully on any one indicator two years in a row will be justification to deny application approval. Note that, the State Board will use the negotiated performance goals submitted with the application for Local Area designation and Local Board certification as evidence of successful performance.

*Sustained fiscal integrity* – the Local Area has not been found in violation of one or more of the following during PY 16-17 or PY 17-18:

- Issues of fiscal integrity or misexpended funds due to the willful disregard or failure to comply with any WIOA requirement, such as failure to grant priority of service or verify participant eligibility, as identified in final determination of significant finding(s) from audits, evaluations, or other reviews conducted by state or local governmental agencies or the DOL.
- Gross Negligence - defined as a conscious and voluntary disregard for the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both.

Local Areas must have adhered to the applicable uniform administrative requirements set forth in WIOA statute, regulations, Uniform Guidance, and state guidance.

*Existing Local Area* – A Local Area that received initial designation from the Governor.

*Modified Local Area* – A Local Area that has completed or is considering Local Area modification as part of its subsequent designation application. Examples include the following: two Local Areas that have been or are proposing to merge into a new combined single Local Area, various Local Areas that have been or will be combined in a new single Local Area, or a Local Area that has been or will be expanded to include part or parts of another current Local Area.

*Engaged in Regional Planning* – WIOA Section 106 (c)(1) requires Local Areas to engage in regional planning in order to be subsequently designated. ***“Engaged in regional planning” is defined as participating in, and having contributed to, regional planning and regional plan implementation (for example, participating in regional planning meetings, leading regional plan implementation efforts, and review and approval of regional plan and modifications by Local Boards and local Chief Elected Officials [CEO]), and participating in regional***

**performance negotiations.** Failure to demonstrate this may result in denial or conditional approval of subsequent designation.

### **Subsequent Local Area Designation Application Process**

WIOA Section 106 calls for a subsequent designation process and requires the Governor to approve a request from local CEO for subsequent designation for a Local Area if the Local Area performed successfully, sustained fiscal integrity, and engaged in the regional planning process as described in WIOA Section 106 (c)(1). To request subsequent designation, the local CEO must follow the applicable process included below.

### **Local Board Recertification**

In accordance with WIOA Section 107(c)(2), the CWDB will recommend recertification of a Local Board if they have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity.

To request recertification, Local Boards must follow the application process included below.

### **Subsequent Local Area Designation and Local Board Recertification Application Process**

- Existing Local Areas  
Complete “Existing Local Area - Application for Subsequent Local Area Designation and Local Board Certification Program Year 2019-21 (Attachment 1)”
- Modified Local Areas for Local Areas that are requesting Local Area modification as part of their subsequent designation, complete “Modified Local Area - Application for Subsequent Local Area Designation and Local Board Certification Program Year 2019-21 (Attachment 2)”

The completed application must be submitted both in hard copy and electronically to the CWDB no later than 5:00 p.m. by June 14, 2019, to [cwdbinfo@cwdb.ca.gov](mailto:cwdbinfo@cwdb.ca.gov). Hard copy applications must be submitted by one of the following methods:

Mail	California Workforce Development Board PO Box 826880 Sacramento, CA 94280-0001
Courier	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento, CA 95814
Hand Deliver	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento, CA 95814

Note the following: Some Local Areas may be unable to obtain local approval by the submission deadline (e.g., due to the scheduling of their respective board meetings). If so, the Local Area may submit an unsigned copy of the application with an explanation for the absent signature(s) and the date by which the signed original will be sent. Local Areas will not receive full subsequent designation status until a signed application is received.

### **Assessment of the Application**

The CWDB, in coordination with the EDD, will verify the information provided in the application once a completed application is received. The CWDB will consider all information provided and determine whether to recommend approval, conditional approval, or denial of the application. The local CEO will be notified in writing regarding the approval or denial of its subsequent designation application. If subsequent designation is conditionally approved or denied, the local CEO must submit a corrective action plan indicating how they will meet the requirements and/or may contest the decision using the appeal process below.

### **Appeal Process for Initial Designation**

A unit of local government (or a combination of units) which has requested and been denied subsequent designation as a Local Area under WIOA may appeal the denial to the CWDB, in accordance with WIOA Section 106. An entity which has been denied subsequent designation may appeal the decision and request a hearing. An appeal and request for hearing must be mailed to the CWDB within 20 calendar days from the mailing date of the notice of denial of initial designation. The appeal must 1) be in writing and state the grounds for the appeal, and 2) state the reasons why the appellant should be designated. The CWDB will contact the appellant to schedule a hearing date within five calendar days of the receipt of the appeal. The CWDB will conduct the appeal hearing process and provide a written decision to the appellant no later than five calendar days after the hearing.

### **Appeal of CWDB Decision**

A unit or combination of units of general government whose appeal has not resulted in designation as a Local Area may also appeal the denial to the DOL (WIOA Section 106[b][5]).

## **ACTION**

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Bring this directive to the attention of the local CEO, Local Board, and appropriate staff.

## INQUIRIES

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If you have any questions, contact your assigned [Regional Advisor](#) at 916-654-7799.

/s/JAIME L. GUTIERREZ, Chief  
Central Office Workforce Services Division

Attachments are available on the internet:

1. [Existing Local Area - Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 \(DOCX\)](#)
2. [Modified Local Area - Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 \(DOCX\)](#)

# **Existing Local Area**

**Application for Subsequent Local Area Designation  
and  
Local Board Recertification  
Program Year 2019-21**

## **Local Workforce Development Area**

Orange County / Orange County Workforce Board (OCWB)

**Existing Local Area Application for Subsequent Local Area Designation and Local Board Recertification**

This application will serve as your request for Local Workforce Development Area (Local Area) subsequent designation and Local Workforce Development Board (Local Board) recertification for Program Year (PY) 2019-21 under the *Workforce Innovation and Opportunity Act (WIOA)*.

If the California Workforce Development Board (CWDB) determines the application is incomplete, it will either be returned or held until the necessary documentation is submitted. Please contact your Regional Advisor for technical assistance or questions related to completing and submitting this application.

Orange County / Orange County Workforce Board (OCWB)

Name of Local Area

1300 S. Grand Ave. Bldg B

Mailing Address

Santa Ana, CA 92705

City, State ZIP

\_\_\_\_\_

Date of Submission

Carma Lacy

Contact Person

714-480-6420

Contact Person's Phone Number

## Local Board Membership

The WIOA Section 107(b)(2)(A) through (E) states the requirements for nominating and selecting members in each membership category. The WIOA Section 107(b)(2)(A) requires that business members constitute a majority of the Local Board. The chairperson shall be a business representative, per WIOA Section 107(b)(3).

The Local Chief Elected Official (CEO) is required to provide the names of the individuals appointed for each category listed on the following pages, and attach a roster of the current Local Board which identifies each member's respective membership category.

*Business* – A majority of the members must be representatives of business in the Local Area who (i) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policy-making or hiring authority; (ii) represent businesses, including small businesses, or organizations; and (iii) are appointed from among individuals nominated by local business organizations and business trade association (WIOA Section 107[b][2][A]).

Please identify the Local Board chairperson by typing CHAIR after his/her name.

Name	Title	Entity	Membership Subcategory	Appointment Date
1. Robert Bunyan CHAIR	Principal	Robert Bunyan & Associates	Small Business	10/22/2019
2. Lauray Holland	Senior Director	The Irvine Company	Hiring Authority	10/22/2019
3. Barbara Mason	Chief of Staff	The Boeing Company	In-Demand Sector/Occupations	10/22/2019
4. Tod Sword	Economic Development Consultant	Southern California Edison	In-Demand Sector/Occupations	10/22/2019
5. Alireza Jazayeri	President	3P Consulting	Small Business	10/22/2019
6. Eric Codorniz	Co-Founder / Regional Client Development	Synoptek	In-Demand Sector/Occupations	10/22/2019
7. Natalie Alverz	Director	Gen Next	Hiring Authority	10/22/2019
8. Teraylan Hollinsworth	Vice President	Hospital Association of Southern California	In-Demand Sector/Occupations	10/22/2019
9. Michael Ruane	Executive Vice President	National CORE	Hiring Authority	10/22/2019
10. David Han	CEO	CORESIVITY	Hiring Authority	10/22/2019
11. Anna Lukes	Executive Director	Community Associations Institute of Orange County	Hiring Authority	10/22/2019

Name	Title	Entity	Membership Subcategory	Appointment Date
1. Robert Bunyan CHAIR	Principal	Robert Bunyan & Associates	Small Business	10/22/2019
2. Lauray Holland	Senior Director	The Irvine Company	Hiring Authority	10/22/2019
3. Barbara Mason	Chief of Staff	The Boeing Company	In-Demand Sector/Occupations	10/22/2019

*Labor* – Not less than 20 percent of the members must be representatives of workforce within the Local Area who must include: (i) representatives of labor organizations who have been nominated by state labor federations; (ii) a member of a labor organization or a training director from a joint labor-management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area; and may include: (iii) representatives of community based organizations with demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, veterans, or individuals with disabilities; and (iv) representatives of organizations with demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth and/or out-of-school youth (WIOA Section 107[b][2][B]).

*California Unemployment Insurance Code (CUIC) Section 14202(b)* further requires and specifies that at least **15 percent** of Local Board members shall be representatives of labor organizations unless the local labor federation fails to nominate enough members. For a local area in which no employees are represented by such organizations, other representatives of employees shall be appointed to the board but any local board that appoints representatives of employees that are not nominated by local labor federations shall demonstrate that no employees are represented by such organizations in the local area.

Name	Title	Entity	Membership Subcategory	Appointment Date
1. Ernesto Medrano	Council Representative	LA/OC Building & Construction Trades	Labor/Apprenticeship	10/22/2019
2. Douglas Mangione	Business Representative	International Brotherhood Electrical Workers OC Local Union 441	Labor/Apprenticeship	10/22/2019
3. Gloria Alvarado	Executive Director	Orange County Labor Federation, AFL-CIO	Labor/Apprenticeship	10/22/2019
4. John Luker	Chief Finance Officer	Orangewood Foundation	Out of School Youth	10/22/2019

*Education* – Each Local Board shall include representatives of entities administering education and training activities in the Local Area who must include (i) a representative of eligible providers administering WIOA Title II adult education and literacy activities; (ii) a representative of institutions of higher education providing workforce investment activities; and may include

(iii) representatives of local educational agencies, and community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment (WIOA Section 107[b][2][C]).

Name	Title	Entity	Membership Subcategory	Appointment Date
1 Gary Matkin	Dean UCI Extension	University of California, Irvine	Higher Education	10/22/2019
2. Dr. Tod Burnett	Executive Vice Chancellor	Brandman University	Higher Education	10/22/2019
3. Brenyale Tommer-Byas	Senior Director	Orange County United Way	Community Based	10/22/2019

*Economic and Community Development* – Each Local Board shall include representatives of governmental, economic, and community development entities serving the Local Area who must include (i) a representative of economic and community development entities; (ii) a representative from the state employment service office under the Wagner-Peyser Act; (iii) a representative of the Vocational Rehabilitation program; and may include (iv) representatives of agencies or entities administering programs serving the Local Area relating to transportation, housing, and public assistance; (v) Representatives of philanthropic organizations serving the Local Area; and (E) individuals or representatives of entities as the local CEO in the Local Area may determine to be appropriate (WIOA Section 107[b][2][D] and [E]).

Name	Title	Entity	Membership Subcategory	Appointment Date
1. Robert Claudio	Deputy Division Chief	EDD Workforce Services	Government	10/22/2019
2. Jess Ben-Ron	Director	Orange County Business Council	Community Dev.	10/22/2019
3. Trung Le	District Administrator	California Department of Rehabilitation	Dept. of Rehab.	10/22/2019

### **Sustained Fiscal Integrity**

The Local Area hereby certifies that it has not been found in violation of one or more of the following during PY 16-17 or PY 17-18:

- *Final determination of significant finding(s)* from audits, evaluations, or other reviews conducted by state or local governmental agencies or the Department of Labor identifying issues of fiscal integrity or misexpended funds due to the willful disregard or failure to comply with any WIOA requirement, such as failure to grant priority of service or verify participant eligibility; or

- *Gross negligence* – defined as a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both; or
- *Failure to observe accepted standards of administration* – Local areas must have adhered to the applicable uniform administrative requirements set forth in Title 2 *Code of Federal Regulations* (CFR) Part 200, WIOA regulations, and state guidance (In alignment with WIOA Section 106[e][2]).

### **Performed Successfully**

The Local Area hereby certifies that it has performed successfully, defined as successfully negotiating PY 18-19 and PY 19-20 performance goals within their designated Regional Planning Unit in the following ways:

Staff from the OCDB participated in the joint conference call with CWDB, Anaheim and Santa Ana WDB staff to negotiate the Orange RPU regional performance measures.

### **Engaged in Regional Planning**

The Local Area hereby certifies that it has participated in and contributed to regional planning and negotiating regional performance measures in the following ways:

The OCDB has been working diligently with its regional partners (Anaheim and Santa Ana Workforce Development Boards) to create the strategic vision that supports regional economic growth and economic self-sufficiency to the communities that we serve. The OCDB not only contributed to the development of the regional policies but we have also written joint local policies with our regional counterparts. Our regional joint mission includes goals for preparing an educated and skilled workforce and goals relating to the performance accountability measures based on WIOA performance. We have worked hard in establishing a no-wrong-door-system by creating regional policies and procedures. In addition, we have hosted more than 20 regional training sessions for Service Providers throughout the region. We continue to identify opportunities to coordinate efforts and believe that we have established a sustainable partnership that benefits all three regional partners.

- Coordinated and participate in the quarterly OC Workforce Leadership Council meetings, mandated partners that were added due to the State revisions to the State Plan.
- Shared responsibility for drafting the Revised Regional and Local Plan.
- Coordinated and co-hosted the Joint Community Public Hearing meeting.

- Participate in the Regional Industry Sector initiative meetings (Mfg., Medical, Hospitality/Tourism/Retail, and IT sectors).
- Participated in the joint conference call with CWDB, Anaheim and County WDB staff to negotiate the Orange RPU regional performance measures.

### Local Area Assurances

Through PY 19-21, the Local Area assures that:

- A. It will comply with the applicable uniform administrative requirements, cost principles, and audit requirements (WIOA Section 184[a][2] and [3]).

Highlights of this assurance include:

- The Local Area's procurement procedures will avoid acquisition of unnecessary or duplicative items, software, and subscriptions (in alignment with Title 2 CFR Section 200.318).
- The Local Area will maintain and provide accounting and program records, including supporting source documentation, to auditors at all levels, as permitted by law (Title 2 CFR Section 200.508).

Note that failure to comply with the audit requirements specified in Title 2 CFR Part 200 Subpart F will subject the Local Area to potential cash hold (Title 2 CFR Section 200.338).

- B. All financial reporting will be done in compliance with federal and State regulations and guidance.

Highlights of this assurance include:

- Reporting will be done in compliance with Workforce Services Directive WSD16-13, *Monthly and Quarterly Financial Reporting Requirements*, (November 28, 2016).
- All close out reports will comply with the policies and procedures listed in WSD16-05, *WIOA Closeout Requirements* (July 29, 2016).

Note that failure to comply with financial reporting requirements will subject the Local Area to potential cash hold. (Title 2 CFR Section 200.338)

- C. Funds will be spent in accordance with federal and state laws, regulations, and guidance.

Highlights of this assurance include:

- The Local Area will meet the requirements of the *California Unemployment Insurance Code Section 14211*, to spend a minimum of 30 percent of combined total of WIOA Title I adult and dislocated worker formula fund allocations on training services.
  - The Local Area will not use funds to assist, promote, or deter union organizing (WIOA Section 181[b][7]).
- D. The Local Board will select the America's Job Center of California<sup>SM</sup> operator(s), with the agreement of the local CEO, through a competitive process such as a Request for Proposal, unless granted a waiver by the state (WIOA Section 121[d][2][A] and 107[g][2]).
- E. The Local Board will collect, enter, and maintain data related to participant enrollment, activities, and performance necessary to meet all CalJOBS<sup>SM</sup> reporting requirements and deadlines.
- F. The Local Board will comply with the nondiscrimination provisions of WIOA Section 188, including the collection of necessary data.
- G. The Local Area will engage in and contribute to, regional planning and regional plan implementation (for example, Local Area has participated in regional planning meetings and regional plan implementation efforts, and the Local Board and local CEO have reviewed and approved the regional plan and modifications).
- H. The Local Area will participate in regional performance negotiations.
- I. It will comply with CWDB policies and guidelines, legislative mandates and/or other special provisions as may be required under federal law or policy, including the WIOA or state legislation.
- J. Priority shall be given to veterans, recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of career and training services funded by WIOA Adult funding (WIOA Section 134[c][3][E] and *Training and Employment Guidance Letter* [TEGL] 10-09, and TEGL 19-16).

### Application Signature Page

**Instructions** – The local CEO and Local Board chair must sign and date this form. Include the original signatures in the application package.

By signing the application below, the local CEO and Local Board chair request initial designation of the existing Local Area and initial certification of the existing Local Board. They certify that the Local Area has performed successfully, worked, in collaboration with EDD, toward sustaining fiscal integrity during PY 16-2017 or PY 17-18, and engaged in the regional planning process as described in WIOA Section 106(c)(1). Additionally, they agree to abide by the Local Area assurances included in this application.

Local Workforce Development Board Chair

Local Chief Elected Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM  
OFFICE OF THE COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By *J. Cleveland*  
Deputy

Date 10/16/17



# Continuation or Deletion Request

**Date:** October 21, 2019  
**To:** Clerk of the Board of Supervisors  
**From:** Barry A. Rondinella, Airport Director, John Wayne Airport *BAR*  
**Re:** ASR Control #: 19-001092, Meeting Date 10/22/19 Agenda Item No. # 13  
**Subject:** Award On-Airport Rental Car Concession Leases

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Request to continue Agenda Item No. # 13 to the 11/19/19 Board Meeting.

Comments:

Request deletion of Agenda Item No. # \_\_\_\_\_

Comments:

RECEIVED  
2019 OCT 21 PM 2:06  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS



**AGENDA STAFF REPORT**

**Agenda Item**

**27**

**ASR Control 19-000670**

**MEETING DATE:** 10/22/19  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office (Approved)  
**DEPARTMENT CONTACT PERSON(S):** Peter DeMarco (714) 834-5777  
 Cynthia Shintaku (714) 834-7086

**SUBJECT:** Grant Applications/Awards Report

<b>CEO CONCUR</b> Concur	<b>COUNTY COUNSEL REVIEW</b> Approved Resolution to Form	<b>CLERK OF THE BOARD</b> Discussion 3 Votes Board Majority
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**Budgeted:** N/A                                      **Current Year Cost:** N/A                                      **Annual Cost:** N/A  
**Staffing Impact:** No                                      **# of Positions:**                                      **Sole Source:** N/A  
**Current Fiscal Year Revenue:** N/A  
**Funding Source:** N/A                                      **County Audit in last 3 years:** No

**Prior Board Action:** N/A

**RECOMMENDED ACTION(S):**

Approve grant applications/awards as proposed and other actions as recommended.

1. Approve Grant Application – OC Public Works – Pest Management Research Grant Program - \$77,866.13.
2. Approve Retroactive Grant Application – OC Community Resources – Addressing Barriers to Employment for Individuals with Disabilities in Orange County – \$500,000.
3. Approve Retroactive Grant Application and Grant Award – Sheriff Coroner Department – GIS Allotment to Fund 9-1-1 Equipment and Services – \$240,000.
4. Approve Grant Application – John Wayne Airport – Airport Improvement Program-Airfield Lighting and Signage Improvements – \$3,167,187.
5. Approve Grant Application and Adopt Resolution – OC Waste and Recycling – Organics Grant Program 4<sup>th</sup> Cycle-Fiscal Years 2018-19 and 2019-20 – \$6,000,000.
6. Receive and File Grant Report.

**SUMMARY:**

See the attached Grants Report.

**BACKGROUND INFORMATION:**

See the attached Grants Report.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A - Grants Report

Attachment B - OCWR Resolution



# Grants Report

**DRAFT**

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County Executive Office/Legislative Affairs

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October 22, 2019  
Item No. 27

## County of Orange Report on Grant Applications/Awards

*The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants \$50,000 or less is delegated to the County Executive Officer. Grant awards greater than \$50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County's grants activities. It also serves to inform Orange County's Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.*

On, October 22, 2019 the Board of Supervisors will consider the following actions:

### RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

### ACTION ITEMS

1. Approve Grant Application – OC Public Works – Pest Management Research Grant Program - \$77,866.13.
2. Approve Retroactive Grant Application – OC Community Resources – Addressing Barriers to Employment for Individuals with Disabilities in Orange County – \$500,000.
3. Approve Retroactive Grant Application and Grant Award – Sheriff Coroner Department – GIS Allotment to Fund 9-1-1 Equipment and Services – \$240,000.
4. Approve Grant Application – John Wayne Airport – Airport Improvement Program-Airfield Lighting and Signage Improvements – \$3,167,187.
5. Approve Grant Application and Adopt Resolution – OC Waste and Recycling – Organics Grant Program 4<sup>th</sup> Cycle-Fiscal Years 2018-19 and 2019-20 – \$6,000,000.
6. Receive and File Grant Report.

If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

**GRANT APPLICATION** /  **GRANT AWARD**

<b>Today's Date:</b>	October 22, 2019
<b>Requesting Agency/Department:</b>	OC Public Works/OC Environmental Resources OC Agricultural Commissioner's Office
<b>Grant Name and Project Title:</b>	<b>Pest Management Research Grant</b> Pest Management Research Grant Program
<b>Sponsoring Organization/Grant Source:</b> <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	California Department of Pesticide Regulation
<b>Application Amount Requested:</b>	\$77,866.13
<b>Application Due Date:</b>	December 20, 2019
<b>Board Date when Board Approved this Application:</b>	
<b>Awarded Funding Amount:</b>	N/A
<b>Notification Date of Funding Award:</b>	March 30, 2020
<b>Is this an Authorized Retroactive Grant Application/Award?</b> No <small>(If yes, attach memo to CEO)</small>	
<b>Recurrence of Grant</b>	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
<b>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</b>	N/A
<b>Does this grant require CEQA findings?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What Type of Grant is this?</b>	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:
<b>County Match?</b>	Yes <input type="checkbox"/> Amount ____ or ____ %      No <input checked="" type="checkbox"/>
<b>How will the County Match be Fulfilled?</b> <small>(Please include the specific budget)</small>	N/A
<b>Will the grant/program create new part or full-time positions?</b>	No
<b>Purpose of Grant Funds:</b>	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>The Department of Pesticide Regulation (DPR) established the Pest Management Research Grant Program to develop practices that reduce the use of and risk from pesticides that are of human health or environmental concern in California. The goal of the Program is the voluntary adoption of these practices, through use of integrated pest management (IPM) systems reducing the use of pesticides of high regulatory concern and/or considered high-risk.</p> <p>The OC Agricultural Commissioner's Office will provide the following services for the proposed grant:</p> <ol style="list-style-type: none"> <li>1. Determine the feasibility of using non-herbicidal methods for vegetation management in aquatic applications (steaming, flaming, electrophysical).</li> <li>2. Assess the environmental impact of the alternative methods including water quality and sensitive aquatic organisms.</li> </ol>	



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

<p><b>Board Resolution Required?</b> (Please attach document to eForm)</p> <p><b>Deputy County Counsel Name:</b> (Please list the Deputy County Counsel that approved the Resolution)</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>
<p><b>Recommended Action/Special Instructions</b> (Please specify below)</p>	
<p><b>Department Contact :</b></p>	<p>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</p>
<p>Brian Glenn, Public Works Maintenance Supervisor, (714)955-0204, <a href="mailto:brian.glenn@ocpw.ocgov.com">brian.glenn@ocpw.ocgov.com</a> Eileen DePuy, OCPW Grant Coordinator, (714)955-0255, <a href="mailto:eileen.depuy@ocpw.ocgov.com">eileen.depuy@ocpw.ocgov.com</a></p>	
<p><b>Name of the individual attending the Board Meeting:</b></p>	<p>List the name of the individual who will be attending the Board Meeting for this Grant Item:</p>
<p>Shane L. Silsby, Director, OC Public Works Khalid Bazmi, Assistant Director/County Engineer, OC Public Works Amanda Carr, Deputy Director, OC Environmental Resources, OC Public Works Jeff Croy, Agricultural Commissioner, OC Public Works</p>	



# OC Community Resources

## M E M O R A N D U M

DYLAN WRIGHT  
DIRECTOR  
OC COMMUNITY RESOURCES

CYMANTHA ATKINSON  
DEPUTY DIRECTOR  
OC COMMUNITY RESOURCES

ROGER UMINSKI II  
DIRECTOR  
ADMINISTRATIVE SERVICES

MIKE KAVIANI  
DIRECTOR  
OC ANIMAL CARE

SHANNON LEGERE  
DIRECTOR  
OC HOUSING &  
HOMELESS SERVICES

RENEE RAMIREZ  
DIRECTOR  
OC COMMUNITY SERVICES

STACY BLACKWOOD  
DIRECTOR  
OC PARKS

SHERRY TOTH  
ACTING COUNTY LIBRARIAN  
OC PUBLIC LIBRARIES

**DATE:** October 11, 2019

**TO:** Frank Kim, County Executive Office

**FROM:** Dylan Wright, Director, OC Community Resources

**SUBJECT:** GRANT SUBMISSION FOR ADDRESSING BARRIERS TO EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES – OC COMMUNITY SERVICES/COMMUNITY INVESTMENT DIVISION

On August 26, 2019, OC Community Resources/OC Community Services/Community Investment Division (CID) applied for the Addressing Barriers to Employment for Individuals with Disabilities in Orange County grant administered by the California Workforce Development Board (CWDB). If CID is awarded funding, focus on the targeted population of individuals with disabilities will be expanded to include workforce services focusing on areas such as training (i.e. soft skills training and Vocational Preparation and Social Adjustment training), job readiness and employment preparation and placement.

Prior to the CWDB releasing the Request for Applications (RFA) at the end of July 2019, limited information regarding the grant and its requirements were made available. Approximately two weeks after the RFA was released, CWDB conducted an application workshop addressing technical questions and provided clarity on the RFA requirements and instructions. CID was unable to bring this grant opportunity to the Board of Supervisors prior to submission due to the short turnaround time from the release date of the RFA to the application due date.

Should you have any questions or require further information, please do not hesitate to contact Carma Lacy, Director of Workforce Development, Community Investment Division at (714) 480-6420.

  
\_\_\_\_\_  
Dylan Wright, Director

10/11/19  
Date

Approved:  
  
\_\_\_\_\_  
Frank Kim, County Executive Officer  
County Executive Office

10/11/19  
Date



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

**GRANT APPLICATION** /  **GRANT AWARD**

<b>Today's Date:</b>	October 11, 2019
<b>Requesting Agency/Department:</b>	OC Community Resources/OC Community Services/Community Investment Division
<b>Grant Name and Project Title:</b>	Addressing Barriers to Employment for Individuals with Disabilities in Orange County
<b>Sponsoring Organization/Grant Source:</b> <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	California Workforce Development Board
<b>Application Amount Requested:</b>	\$500,000
<b>Application Due Date:</b>	August 26, 2019
<b>Board Date when Board Approved this Application:</b>	N/A
<b>Awarded Funding Amount:</b>	N/A
<b>Notification Date of Funding Award:</b>	N/A
<b>Is this an Authorized Retroactive Grant Application/Award?</b> Yes, memo attached <small>(If yes, attach memo to CEO)</small>	
<b>Recurrence of Grant</b>	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
<b>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</b>	N/A
<b>Does this grant require CEQA findings?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What Type of Grant is this?</b>	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:
<b>County Match?</b>	Yes <input checked="" type="checkbox"/> Amount <u>\$500,000</u> or <u>100</u> % No <input type="checkbox"/>
<b>How will the County Match be Fulfilled?</b> <small>(Please include the specific budget)</small>	County match will be fulfilled by the designated Contract Provider (Community Based Organization) and by Title I WIOA funding
<b>Will the grant/program create new part or full-time positions?</b>	No
<b>Purpose of Grant Funds:</b>	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The Addressing Barriers to Employment for Individuals with Disabilities in Orange County grant is administered by the California Workforce Development Board and is intended to provide workforce services to individuals with disabilities, by providing soft skills training, Vocational Preparation and Social Adjustment (VPSA) training and co-enrollment into the Workforce Innovation Opportunity Act (WIOA) through local Orange County America's Job Centers of California (AJCC)/One Stop Centers for job readiness and employment placement services. The intended soft skills and VPSA trainings will be offered to the targeted population and the curriculum presented to service providers within the community, including AJCC staff, to help deliver workforce services to individuals with disabilities who have limited employment prospects and unique needs.

If awarded, funding will expand services amongst the targeted population of individuals with disabilities and will provide additional direct support, including trainings aimed at personal development, job readiness and placement, to ensure integration into the workforce industry and employment retention. Moreover, these grant funds would further contribute to the



## CEO-Legislative Affairs Office Grant Authorization eForm

success of the services currently provided to workforce development participants and the County by: <ul style="list-style-type: none"> <li>Increasing the number of participants enrolled and benefitting from the program</li> <li>Expanding services to approximately 150 participants who are anticipated to be served</li> <li>Providing a more tangible referral pathway for participants into other workforce development programs</li> <li>Increasing placement of individuals into Competitive Integrated Employment</li> <li>Preparing and connecting individuals with disabilities to the Orange County AJCC's for WIOA co-enrollment and job readiness expansion</li> <li>Training the Orange County Region staff on best practices in serving individuals with disabilities</li> </ul>	
<b>Board Resolution Required?</b> <small>(Please attach document to eForm)</small>	Yes <input type="checkbox"/> <span style="margin-left: 200px;">No <input checked="" type="checkbox"/></span>
<b>Deputy County Counsel Name:</b> <small>(Please list the Deputy County Counsel that approved the Resolution)</small>	John Cleveland
<b>Recommended Action/Special Instructions</b> <small>(Please specify below)</small>	
Authorize OC Community Resources Director or designee to apply for the Addressing Barriers to Employment for Individuals with Disabilities in Orange County grant administered by the California Workforce Development Board.	
<b>Department Contact:</b>	<small>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</small>
Nakia Thierry; <a href="mailto:Nakia.Thierry@occr.ocgov.com">Nakia.Thierry@occr.ocgov.com</a> ; 714-480-6460	
<b>Name of the individual attending the Board Meeting:</b>	<small>List the name of the individual who will be attending the Board Meeting for this Grant Item:</small>
Carma Lacy, Director of Workforce Development	

# ORANGE COUNTY SHERIFF'S DEPARTMENT

## EXTERNAL MEMO

**To:** County Executive Officer Frank Kim   
**From:** Robert Beaver, Senior Director Administrative Services Command   
**Date:** October 9, 2019  
**RE:** Retroactive Request to Apply for and Accept Geospatial Information System (GIS) Allotment Funding



This memo is submitted to request that the CEO place the subject grant application and acceptance on the October 22, 2019 Board of Supervisors (Board) Meeting Agenda. The Sheriff-Coroner Department (Sheriff) requests retroactive approval for both the application and the allotment acceptance as the staff responding to the state was not aware that this GIS allotment funding was the same as grant funding, and subject to Board of Supervisors approval.

State of California, California 9-1-1 Emergency Communications Office advised there was a Geospatial Information System (GIS) allotment in the State Emergency Telephone Account that Sheriff was eligible to receive. The GIS allotment is determined by the emergency call volume that Sheriff receives. The GIS allotment has been available to Sheriff for several years, but it was not communicated that Sheriff needed to provide a Scope of Work to access the funding. The GIS allotment is available to agencies with a need for technology to enhance wireless caller location identification for people calling for emergency services.

A Scope of Work and Quotes for Sheriff's Public Safety Answering Point GIS Implementation was requested on August 16, 2019. Sheriff's staff provided the requested information by the deadline of September 16, 2019.

State of California, California 9-1-1 Emergency Communications Office contracted with Nth Generation to provide GIS HP server Blade and backup software licenses. Sidepath is contracted through the state to provide GIS storage capacity and VMware with licenses. Insight is contracted by the state to provide GIS Microsoft Core and SQL servers. Sheriff will remit payment to the designated vendors at the rates established by the state for services included in the Scope of Work. Sheriff will submit its records to the state for reimbursement.

Sheriff received its approval on September 23, 2019. In future years, Sheriff will request Board approval to apply for and accept the GIS allotment funding.

If you have any questions about the grant, please contact Joe Giese at (714) 834-3913.

c: Chief of Staff Ray Grangoff, Sheriff-Coroner Department  
 Executive Director Brian Wayt, Professional Services Command



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

GRANT APPLICATION /  GRANT AWARD

<b>Today's Date:</b>	October 10, 2019
<b>Requesting Agency/Department:</b>	Sheriff-Coroner Department
<b>Grant Name and Project Title:</b>	GIS Allotment to Fund 9-1-1 Equipment and Services
<b>Sponsoring Organization/Grant Source:</b> <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	State of California, California 9-1-1 Emergency Communications Office
<b>Application Amount Requested:</b>	\$240,000
<b>Application Due Date:</b>	September 16, 2019
<b>Board Date when Board Approved this Application:</b>	Pending for 10/22/19
<b>Awarded Funding Amount:</b>	\$240,000
<b>Notification Date of Funding Award:</b>	September 23, 2019
<b>Is this an Authorized Retroactive Grant Application/Award? Yes</b> <small>(If yes, attach memo to CEO)</small>	
<b>Recurrence of Grant</b>	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
<b>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</b>	N/A
<b>Does this grant require CEQA findings?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What Type of Grant is this?</b>	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: Formula program
<b>County Match?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>How will the County Match be Fulfilled?</b> <small>(Please include the specific budget)</small>	N/A
<b>Will the grant/program create new part or full-time positions?</b>	No
<b>Purpose of Grant Funds:</b>	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
<p>State of California, California 9-1-1 Emergency Communications Office advised there was a Geospatial Information System (GIS) allotment in the State Emergency Telephone Account that the Sheriff-Coroner Department (Sheriff) was eligible to receive. The GIS allotment is determined by the emergency call volume that the department receives. The GIS allotment has been available to the Sheriff's department for several years, but it was not communicated that the Sheriff's department needed to provide a Scope of Work to access the funding. The GIS allotment is available to agencies with a need for technology to enhance wireless caller location identification for people calling for emergency services.</p> <p>A Scope of Work and Quotes for Sheriff's Public Safety Answering Point GIS Implementation was requested on August 16, 2019. Sheriff's staff provided the requested information by the deadline of September 16, 2019.</p> <p>State of California, California 9-1-1 Emergency Communications Office contracted with Nth Generation to provide GIS HP server Blade and backup software licenses. Sidepath is contracted through the state to provide GIS storage capacity and Vmware with licenses. Insight is contracted by the state to provide</p>	



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

GIS Microsoft Core and SQL servers. The Sheriff's department will remit payment to the designated vendors at the rates established by the state for services included in the Scope of Work. The Sheriff's department will submit its records to the state for reimbursement.

The Sheriff's department received its approved GIS Allotment Commitment to Fund 9-1-1 Equipment and Services on September 23, 2019. Retroactive approval is being requested for both the application and the allotment acceptance as the staff responding to the state was not aware that this allotment funding was the same as grant funding, and subject to Board of Supervisors approval.

**Board Resolution Required?**

(Please attach document to eForm)

Yes

No

**Deputy County Counsel Name:**

(Please list the Deputy County Counsel that approved the Resolution)

Nicole A. Sims, Supervising Deputy County Counsel, has reviewed and approved the GIS Allotment Commitment to Fund 9-1-1 Equipment and Services.

- 1) Request retroactive authorization to apply for and accept the GIS Allotment to Fund 9-1-1 Equipment and Services in a not to exceed amount of \$240,000.
- 2) Request retroactive approval for the Sheriff-Coroner or designee to approve the GIS Allotment Commitment to Fund 9-1-1 Equipment and Services and all related documents.

Resolution is not required for this grant.

**Department Contact :**

List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Joe Giese      714-834-3913      [jegiese@ocsd.org](mailto:jegiese@ocsd.org)

**Name of the individual attending the Board Meeting:**

List the name of the individual who will be attending the Board Meeting for this Grant Item:

Joe Giese

GRANT APPLICATION /  GRANT AWARD

<b>Today's Date:</b>	October 08, 2019
<b>Requesting Agency/Department:</b>	John Wayne Airport
<b>Grant Name and Project Title:</b>	Airport Improvement Program – Airfield Lighting and Signage Improvements
<b>Sponsoring Organization/Grant Source:</b>	Federal Aviation Administration (FAA)
<b>Application Amount Requested:</b>	\$ 3,167,187
<b>Application Due Date:</b>	December 31, 2019
<b>Board Date when Board Approved this Application:*</b>	N/A
<b>Awarded Funding Amount:*</b>	*
<b>Notification Date of Funding Award:*</b>	*
<b>Is this an Authorized Retroactive Grant Application/Award?</b> This is not a retroactive grant award. (If yes, attach memo to CEO)	
<b>Recurrence of Grant</b>	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
<b>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</b>	This is not a recurring grant.
<b>Does this grant require CEQA findings?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What Type of Grant is this?</b>	Competitive <input type="checkbox"/> Other Type <input checked="" type="checkbox"/> Explain: FAA Airport Improvement Program grant agreements are standard agreements that all airport proprietors must execute to receive Federal grant funds for eligible projects.
<b>County Match?</b>	Yes <input checked="" type="checkbox"/> Amount: \$762,813 or 19.41 % No <input type="checkbox"/>
<b>How will the County Match be Fulfilled?</b> (Please include the specific budget)	FY 2020-21 Fund 281 – Airport Construction fund
<b>Will the grant/program create new part or full-time positions?</b>	The grant will not create new positions.
<b>Purpose of Grant Funds:</b>	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
The grant will reimburse costs for the Airfield Lighting and Signage Improvements project. Project scope includes replacement of incandescent airfield lighting and signage with LED technology, as well as other identified efficiency, reliability and safety concerns. The grant will fund approximately \$3,167,187 (80.59%) of the total eligible cost of up to \$3,930,000. The Airport is required to fund \$762,813 (19.41%), which will be included in the FY20-21 Fund 281 – Airport Construction fund budget.	
<b>Board Resolution Required?</b> (Please attach document to eForm)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Deputy County Counsel Name:</b> (Please list the Deputy County Counsel that approved the Resolution)	
<b>Recommended Action/Special Instructions</b> (Please specify below)	

A recommendation to the Board will be made to accept the grant, when issued, and to authorize the Airport Director to sign the grant agreement.	
<b>Department Contact :</b>	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Barry Rondinella, Airport Director (949) 252-5183, BRondinella@ocair.com	
<b>Name of the individual attending the Board Meeting:</b>	List the name of the individual who will be attending the Board Meeting for this Grant Item:
Barry Rondinella, Airport Director (949) 252-5183, BRondinella@ocair.com	



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

**GRANT APPLICATION** /  **GRANT AWARD**

<b>Today's Date:</b>	October 10, 2019
<b>Requesting Agency/Department:</b>	OC Waste & Recycling
<b>Grant Name and Project Title:</b>	Organics Grant Program 4th Cycle (ORG4) – Fiscal Years 2018–19 and 2019–20
<b>Sponsoring Organization/Grant Source:</b> <small>(If the grant source is not a government entity, please provide a brief description of the organization/foundation)</small>	Department of Resources Recycling and Recovery (CalRecycle)
<b>Application Amount Requested:</b>	(2018-19) \$3,000,000 (2019-20) \$3,000,000 Total application amount = \$6,000,000
<b>Application Due Date:</b>	November 7, 2019
<b>Board Date when Board Approved this Application:</b>	
<b>Awarded Funding Amount:</b>	
<b>Notification Date of Funding Award:</b>	
<b>Is this an Authorized Retroactive Grant Application/Award?</b> No <small>(If yes, attach memo to CEO)</small>	
<b>Recurrence of Grant</b>	New <input checked="" type="checkbox"/> Recurrent <input type="checkbox"/> Other <input type="checkbox"/> Explain:
<b>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</b>	
<b>Does this grant require CEQA findings?</b>	No <input type="checkbox"/>
<b>What Type of Grant is this?</b>	Competitive <input checked="" type="checkbox"/> Other Type <input type="checkbox"/> Explain:
<b>County Match?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>How will the County Match be Fulfilled?</b> <small>(Please include the specific budget)</small>	
<b>Will the grant/program create new part or full-time positions?</b>	No.
<b>Purpose of Grant Funds:</b>	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
To comply with recently passed legislation related to disposal of organic material, OC Waste & Recycling is working towards developing commercial scale composting operations at the Frank R. Bowerman Landfill and the Prima Deshecha Landfill. If awarded, these grants will help offset some of the costs associated with the development of the composting operations. The composting operations will also help to ensure continued low-cost disposal and recycling rates for the residents and businesses of Orange County and extend landfill life by reducing disposal of greenwaste in County landfills.	
<b>Board Resolution Required?</b> <small>(Please attach document to eForm)</small>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Deputy County Counsel Name:</b> <small>(Please list the Deputy County Counsel that approved the Resolution)</small>	Paul Albarian
<b>Recommended Action/Special Instructions</b> <small>(Please specify below)</small>	



**CEO-Legislative Affairs Office  
Grant Authorization eForm**

Authorize the Director of OCWR to sign all necessary application documents required for the submission of the application and supporting documentation CalRecycle.	
<b>Department Contact :</b>	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Steven Halligan – 714-834-4116 <a href="mailto:Steven.Halligan@ocwr.ocgov.com">Steven.Halligan@ocwr.ocgov.com</a> Lisa Smith – 714-834-4357 <a href="mailto:Lisa.Smith@ocwr.ocgov.com">Lisa.Smith@ocwr.ocgov.com</a>	
<b>Name of the individual attending the Board Meeting:</b>	List the name of the individual who will be attending the Board Meeting for this Grant Item:
Lisa Smith Tom Koutroulis	

RESOLUTION OF THE BOARD OF SUPERVISORS OF  
ORANGE COUNTY, CALIFORNIA

October 22, 2019

WHEREAS, California Public Resources Code sections 48000 et seq. authorize the California Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (Grants) in furtherance of the State of California's (State) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the Grants; and

WHEREAS, CalRecycle Grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle Grants.

NOW, THEREFORE, BE IT RESOLVED that:

1. In connection with OC Waste & Recycling's development of composting operations at the Frank R. Bowerman Landfill and the Prima Deshecha Landfill, the Orange County Board of Supervisors authorizes OC Waste & Recycling to submit applications to CalRecycle for the Organics Grant Program, Cycle 4 (Greenhouse Gas Reduction Fund, FY 2018-19 and FY 2019-20); and
2. The Director of OC Waste & Recycling, or his/her designee is hereby authorized and empowered to execute in the name of the County of Orange all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project.



**MICHELLE STEEL**  
VICE CHAIR, SECOND DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION  
333 W. SANTA ANA BLVD., P.O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687  
PHONE (714) 843-3220 FAX (714) 834-6109 michelle.steel@ocgov.com

**M E M O R A N D U M**

October 16, 2019

TO: Robin Stieler, Clerk of the Board  
FROM: Vice Chair Michelle Steel, Supervisor Second District  
SUBJECT: Appointment to Orange County Mental Health Board

*now job*

*S31A*

Please add a item of business to the supplemental calendar for the October 22, 2019 Board meeting agenda. The title of the item should read:

**Vice Chair Steel** – Orange County Mental Health Board – Appoint Nita Tewari, Newport Beach, to complete a three year term ending December 4, 2021.

RECEIVED  
2019 OCT 17 PM 2:01  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

  
TEWARI  
PHD

---

September 18, 2019

Dear Orange County Mental Health Board Applicant Reviewers,

I'm pleased to apply for the position to serve on the Orange County Mental Health Board. I am a native Southern Californian born in Los Angeles and have resided in Orange County since 1978.

I currently have a private consulting practice in Newport Beach focusing on the impact of screen time on mental health, and presenting at university campuses on student wellness and speaking on multicultural psychology topics focused on the de-stigmatization of mental illness and mental health awareness.

I am a recognized leader in the field, have numerous publications and continue to stay engaged with professional psychology organizations both locally and nationally. I am also the Founder of the Psychology Screen SPACE Research Lab.

My educational background includes a Masters in psychology, and PhD in Counseling Psychology from Southern Illinois University at Carbondale.

I went to UC Irvine for my undergraduate education and received a B.A. in psychology from there. I value education and have been dedicated to professionally mentoring young adults in their pursuit of higher education and positive mental wellbeing for the last 20 years.

I serve on several boards including being a Board Member of the Dean's Leadership Circle in the School of Biological Sciences at UCI, and am also a Board Member for the Parent Teacher Association for Corona Del Mar Middle and High School and a Member of the Beauty in Grace Women's Giving Circle, Memorial Care Saddleback Women's Hospital Foundation.

More personally, I am a parent of two teenagers, one who is a sophomore attending Corona Del Mar High School and the other, a first year student in the Olin Business School at Washington University in St. Louis and have consistently supported their public schools through involvement with the schools foundations and donating both time and financial resources for over a decade.

I hope to continue to remain an active member of my Orange County community and look forward to the possibility of sharing my professional and personal experiences to benefit the mental health and wellness of our Orange County citizens.

Respectfully,  
Dr. Nita Tewari



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## PROFESSIONAL SUMMARY

Accomplished consultant with a successful track record of providing mental health and wellness services, public speaking at local and national universities, conducting innovative research, coaching and professionally mentoring students and young adults.

## SKILLS

- Exceptional motivational, inspirational and leadership styles
- Excellent organization, writing and speaking skills
- Effectively plan, designate and execute tasks
- Committed to educating the public on psychology topics
- Ability to customize and implement mental health and wellness plans
- Longstanding and consistent dedication to school and community involvement

## WORK HISTORY

### **Consultant** (Jan 2006 – Present)

*Nita Tewari, PhD Consulting Services and SPACE Wellness, Newport Beach, CA*

- Provide consulting services to students and universities on multicultural mental health, focusing on Asian American/Indian American psychology
- Educate through presenting and speaking to parents, teens and young adults on the impact of screen time on wellbeing
- Professionally mentor university students, young adults and early career professionals
- Develop customized mental health and wellness plans using the SPACE (social, physical, academic, cognitive and emotional) Wellness Model

### **Co-Founder** (Jan 2012 – Dec 2016)

*Green Mung Beans, LLC, Newport Beach, CA*

- Founded an online retail business store
- Developed an all-in-one stainless steel sprouting kit and a recipe book
- Sourced organic, non-GMO whole green mung beans from suppliers

### **Staff Psychologist** (Oct 2002 - Feb 2006)

*Counseling Center, University of California Irvine*

- Provided individual and group psychotherapy to diverse students in race, ethnicity, gender, sexual orientation, socioeconomic status, religion and worldview.
- Psychological concerns included depression, anger management, psychosis, social skills training self-esteem, academic performance, sexual abuse and other clinical and adjustment issues.
- Conducted outreach and consultations to campus organizations and departments



---

**Lecturer (Jan 2003 – Jun 2005)**

*School of Social Sciences, University of California Irvine*

- Taught courses of 200+ students on the topic of Asian American Psychology
- Established course content, group assignments and experiential exercises
- Developed midterm and final exams, trained and supervised a total of 25+ teaching assistants responsible for leading course discussion sections and
- Published the textbook, *Asian American Psychology: Current Perspectives* (2009) based upon the teaching curriculum

**Research Psychologist (Nov 1999 - Nov 2002)**

*California State University, Long Beach*

- Used qualitative/quantitative methods to conduct research and write reports on alcohol and substance abuse programs, graduation and retention rates of ethnic minorities and improving mental health services for diverse individuals on campus. Reported to the VP of Student Services.

**EDUCATION**

**Ph.D., Counseling Psychology (2000)** Southern Illinois University at Carbondale

**Pre-Doctoral Psychology Internship (1997-98)** University of California, Los Angeles

**M.A., Psychology (1995)** Southern Illinois University at Carbondale

**B.A., Psychology, (1992)** University of California, Irvine

**LEADERSHIP POSITIONS, PROFESSIONAL AND COMMUNITY AFFILIATIONS**

- |                |  |
|----------------|--|
| 2018 – Present | <b>Board Member/Historian</b> , Parent Teacher Association (PTA), Corona Del Mar High School (CDM), CA   |
| 2018 – Present | <b>Board Member</b> , UCI BioSci Dean's Leadership Council   |
| 2017 – Present | <b>Founder</b> , The Krishna and Sujata Tewari Scholar Award, UC Irvine  |
| 2017 – Present | <b>Member</b> , Beauty in Grace Women's Giving Circle, MemorialCare Saddleback Medical Center, CA  |
| 2015 – Present | <b>PTA Reflections Literature Judge</b> , Corona Del Mar High School, CA   |
| 2015 – Present | <b>Member</b> , California Psychological Association   |
| 2006 - 2018    | <b>Co-Chair</b> for Newport Coast Elementary (NCE) Galas, <b>Brownie Troop Leader</b> , (NCE), <b>Parent Advisor</b> - Robotics Club (NCE/CDM), <b>Board Member</b> – CDM Girls Basketball, <b>Team Parent</b> – CDM Boys Basketball |
| 1996 – Present | <b>Former Vice President</b> (2008-09) and <b>Member</b> , Asian American Psychological Association  |
| 1993 – Present | <b>Member</b> – American Psychological Association   |



**MICHELLE STEEL**  
VICE CHAIR, SECOND DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION  
333 W. SANTA ANA BLVD., P.O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687  
PHONE (714) 843-3220 FAX (714) 834-6109 michelle.steel@ocgov.com

**M E M O R A N D U M**

October 16, 2019

TO: Robin Stieler, Clerk of the Board

FROM: Vice Chair Michelle Steel, Supervisor Second District *MSL JB*

SUBJECT: Appointment to Community Action Partnership of Orange County, Inc. *S31B*

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Please add a item of business to the supplemental calendar for the October 22, 2019 Board meeting agenda. The title of the item should read:

**Vice Chair Steel** – Community Action Partnership of Orange County, Inc. – Appoint Nimusha Punnen Jacob, Huntington Beach, for a term concurrent with Supervisors term of office.

RECEIVED  
2019 OCT 17 PM 2:01  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS



APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to: Clerk of the Board of Supervisors 333 West Santa Ana Blvd., Suite 465 Santa Ana, California 92701 Website: www.ocgov.com/gov/cob/

2019 OCT 17 PM 2:01 RECEIVED CLERK OF THE BOARD OF SUPERVISORS COUNTY OF ORANGE

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

Community Action Partnership of Orange County, Inc.

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: [ ] First [X] Second [ ] Third [ ] Fourth [ ] Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

Form fields for applicant name and residence address: First Name (Nimusha Punnen), Middle Name, Last Name (Jacob), Street Address, City, State, Zip Code, Home Phone Number, Cell Phone Number, Email Address.

CURRENT EMPLOYER: University of California, Irvine

OCCUPATION/JOB TITLE: Administrative Officer

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: [X] YES [ ] NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? [X] YES [ ] NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange County

LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

<u>ORGANIZATION/SOCIETY</u>	<u>FROM (MO./YR.)</u>	<u>TO (MO./YR.)</u>
NA		

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)?  YES  NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST?  YES  NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETENTIONS THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)?

YES  NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

Please see attached.

DATE: Sept. 25, 2019

APPLICANTS SIGNATURE: Jacob

**CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE**

Date Received: _____	Received by: _____ Deputy Clerk of the Board of Supervisors
Date referred: _____	
To: <input type="checkbox"/> BOS District 1	<input type="checkbox"/> BOS District 2
<input type="checkbox"/> All BOS	<input type="checkbox"/> BOS District 3
<input type="checkbox"/> BCC Contact Person Name _____	<input type="checkbox"/> BOS District 4
	<input type="checkbox"/> BOS District 5

# NIMUSHA PUNNEN JACOB

## EXPERIENCED HEALTH CARE MANAGEMENT PROFESSIONAL

*Valuable and respected, high quality management professional in the health services industry managing and administering over \$10 million funds and securing 30+ grants with over \$11 million in awards.  
Highly accomplished Management Services Officer with 15+ years of experience in strategic health management & hospital administration.*

*Team player with highly competent interpersonal skills to generate long- term relationships with senior leadership and colleagues.*

## EDUCATIONAL ACHIEVEMENTS

**MASTER OF HEALTH ADMINISTRATION DEGREE**  
UNIVERSITY OF SOUTHERN CALIFORNIA, LOS ANGELES, CA

BACHELOR OF DENTAL SURGERY | COLLEGE OF DENTAL SURGERY, MANGALORE, INDIA

### CERTIFICATIONS

SIX SIGMA LEAN, GREEN BELT | UNIVERSITY OF CALIFORNIA, IRVINE  
FISCAL ADMINISTRATION | UNIVERSITY OF SOUTHERN CALIFORNIA

## HEALTH CARE EXPERTISE

STRATEGIC PLANNING | FINANCIAL MANAGEMENT AND ADMINISTRATION | PRIVATE PRACTICE SET UP  
PROCESS IMPROVEMENT - SIX SIGMA LEAN, GREEN BELT | OPERATIONS MANAGEMENT | PROJECT LOGISTICS  
HOSPITAL AND PRIVATE PHYSICIAN PRACTICE MANAGEMENT | PATIENT CARE REVENUE CYCLE | TREND ANALYSIS  
PROJECT PERFORMANCE | ADVOCACY | PERSONNEL | COMMUNICATION | QUALITY IMPROVEMENT | HIGHLY ETHICAL  
REPORTING & COMPLIANCE | GRANT MANAGEMENT & FUNDING | GE PATIENT BILLING | QUEST & EPIC EMR SYSTEM |

## PROFESSIONAL EXPERIENCE

UNIVERSITY OF CALIFORNIA – IRVINE, CA

12/2013 TO PRESENT

**ADMINISTRATIVE OFFICER** | DEPARTMENT OF MEDICINE | DIVISIONS OF CARDIOLOGY, GENERAL INTERNAL MEDICINE (INCLUDING WEIGHT MANAGEMENT) AND RHEUMATOLOGY

*Managed the divisions with diligence and integrity. Creative and resourceful operational strategist with expertise in day to day demands of a busy and complex organization successfully keeping divisions both efficient and operational.*

- ▶ Operational strategist responsible for fiscal management, staff and academic personnel administration, material management, contract and grant administration.
- ▶ Works in conjunction with Division Chiefs and Chief Administrative Officer to develop and implement long range planning for the Divisions; that includes budgets, physician incentives and other division related financials, process improvement and problem solving for all program related services.
- ▶ Analyzes and forecasts clinical revenue trends. Identifies new sources of revenue trends and implements practices to consistently increase division revenue and physician productivity
- ▶ Developed business plan from concept to completion for two Site of Service (SOS) 11 practices. Instrumental in managing several logistical issues; personnel, clinic templates, square footage, rent, space, equipment, renovation etc.
- ▶ Responsible for the oversight of Cardiology and Rheumatology fellowship programs. Responsible for all aspects of the academic appointment process of all division faculty and issues related to merits and promotions. Also responsible for all personnel functions of new staff hires and reclassification.
- ▶ Establishes unit performance standards, evaluates employees and reviews evaluations compiled by subordinate supervisor. Implements effective continuing education programs to ensure staff development and training.

# NIMUSHA PUNNEN JACOB

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## SIGNIFICANT ACCOMPLISHMENTS

- Successful track record in building and directing divisions to achieve increased revenue, as well as physician productivity.
- Worked in conjunction with Medical Center to successfully expand their market share and competitive positioning.

UNIVERSITY OF SOUTHERN CALIFORNIA – LOS ANGELES, CA

05/2007 TO 11/2013

**PROJECT MANAGER** | SECTION OF COMMUNITY DENTISTRY | DENTAL PUBLIC HEALTH & PEDIATRIC DENTISTRY

*Strategic Project Manager responsible for sound fiscal budgeting and administrative reporting. Uses in-depth knowledge to transform Letter of Inquiry/proposals into long term grants through successful delivery of goals, objectives, and fiscal commitments. Committed advocate for delivery of community dental health care services.*

- ▶ Had overseen management of clinic Directors in Skid Row area, manages clinic data entry personnel, student interns, and executive decision-maker for assigned account/project fund appropriation.
- ▶ Charged with projects specific to oral health promotion, disease prevention, and epidemiology. Advocates and supports administration for delivery of community dental care. Develops and manages project budgets, authorizes expenditures, and reconciles accounts.
- ▶ Lead management of grant funded clinical and training projects. Received grant extensions and renewals on successful project performance.
- ▶ Charged with maintenance of up-to-date budgeting, fiscal reporting, Quality Improvement, and progress reporting.
- ▶ Develops patient care and administrative reporting via grantor specific software to show compliance with grant funded projects. Designed quality-centric management plan for off-site clinics to ensure quality of care commitment.

**NOTABLE GRANTORS:** California Endowment, California Wellness, Weingart, Parsons, Unihealth, Good Hope, QueensCare.

## SIGNIFICANT ACCOMPLISHMENTS

- Served as go-to person for project information on all health care projects for specific oral health promotion, disease prevention and epidemiology for homeless and underserved minority communities in Los Angeles County.
- Coordinated federal redesignation of Southeast Los Angeles as dental HPSA (Health Professional Shortage Area) in 2007, and of Southwest Los Angeles in 2010.
- Instrumental with Union Rescue Mission Homeless project working budget increase from \$250K to \$710K annually, as well as provision of health care services for up to 1,210 patients a year.

UNIVERSITY OF SOUTHERN CALIFORNIA – LOS ANGELES, CA

05/2003 TO 04/2007

**PROJECT SPECIALIST** | SECTION OF COMMUNITY DENTISTRY | DENTAL PUBLIC HEALTH & PEDIATRIC DENTISTRY

*Dynamic Project Specialist assisted in planning, organization, and delivery of services specific to oral health promotion, disease prevention, and epidemiology in university program.*

## SIGNIFICANT ACCOMPLISHMENTS

- Successfully proposed and secured dental HPSA (Health Professional Shortage Area) designation for central area of Los Angeles due to the dramatic lack of oral health care providers in area.
- Planned, organized, and conducted first Los Angeles Oral Health Summit in the state of California.

THE TOOTH PLACE – CHENNAI, INDIA

02/1996 TO 04/2000

**CHIEF DENTAL SURGEON**

*Provided dental care to patients at state-of-the-art clinic, assisted with administrative functions such as budget management, daily operations, and supervision of assistants. Hired and trained new employees, planned and maintained clinic inventory.*

**PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.**

I have had the privilege of working for 13 years with the University of Southern California's Herman Ostrow School of Dentistry's Community Health Programs, providing free high quality dental care to the underserved community. I have helped secure funds and managed USC's comprehensive dental clinics that serve LA's homeless population located in "Skid Row" at the Union Rescue Mission and JWCH Center for Community Health. I also successfully proposed and secured the dental HPSA (Health Professional Shortage Area) designation for the central area of Los Angeles due to the dramatic lack of oral health care providers in the area. This made it possible for USC to hire a NHSC scholar as the director of the Clinic. I have also generated and managed diversity related grants to fund education.

Working with the community and helping enrich the lives of the underserved have been the most fulfilling years of my career. This is where belong, and I am eager to give back to the community again. Being a member of the Community Action Partnership of Orange County, I will get the opportunity again to be able to work towards enhancing the quality of life of the underserved, and help provide all that is necessary to families and individuals to become independent and self sufficient.



# County Executive Office

## Memorandum

October 16, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer *for M. McGuire*

Subject: Exception to Rule 21

RECEIVED  
2019 OCT 17 PM 3:50  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

S31C

The County Executive Office is requesting a Supplemental Agenda Staff Report for the October 22, 2019, Board Hearing.

Agency: County Executive Office

Subject: Approve 2019-2023 Memoranda of Understanding with the Orange County Employees Association

Districts: All Districts

**Reason for supplemental:** The County Executive Office is requesting that this item be added to the October 22, 2019, Board agenda as a Supplemental Item as the County and the Orange County Employees Association reached a tentative agreement for successor Memoranda of Understanding (MOU). In order to avoid any delay in ratifying the terms and conditions of the successor MOUs, Human Resource Services respectfully requests to have this item placed on the Board agenda for October 22, 2019. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

*Lisa A. Bartlett*  
\_\_\_\_\_  
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors  
County Executive Office  
County Counsel



### SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

**MEETING DATE:** 10/22/2019  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office  
**DEPARTMENT HEAD REVIEW:** Tom Hatch  
*Department Head Signature*  
**DEPARTMENT CONTACT PERSON(S):** Tom Hatch (714) 834-2836  
 Colette Farnes (714) 834-2247

RECEIVED  
 2019 OCT 17 PM 3:50  
 CLERK OF THE BOARD  
 ORANGE COUNTY  
 BOARD OF SUPERVISORS

**SUBJECT:** Approve 2019-2023 Memoranda of Understanding with the Orange County Employees Association

**CEO CONCUR**

M. Quinn  
*CEO Signature*

**COUNTY COUNSEL REVIEW**

Approved as to Form -  
*Action*  
Julia Matzgood  
*County Counsel Signature*

**CLERK OF THE BOARD**

Discussion  
3 Votes Board Majority

**Budgeted:** N/A

**Current Year Cost:** See Financial Impact Section

**Annual Cost:** See Financial Impact Section

**Staffing Impact:** No

**# of Positions:** N/A

**Sole Source:** N/A

**Current Fiscal Year Revenue:** N/A

**Funding Source:** See Financial Impact Section

**County Audit in last 3 years:** No

**Prior Board Action:** N/A

**RECOMMENDED ACTION(S):**

Approve and adopt the attached 2019-2023 Memoranda of Understanding between the County of Orange and the Orange County Employees Association for the Community Services, County General, Healthcare Professional, Office Services, Sheriff's Special Officer and Supervisory Management Units.

**SUMMARY:**

Approval and adoption of the 2019-2023 Memoranda of Understanding between the County of Orange and the Orange County Employees Association for the Community Services, County General, Healthcare Professional, Office Services, Sheriff's Special Officer and Supervisory Management Units will ratify the terms and conditions of employment.

## **BACKGROUND INFORMATION:**

The Orange County Employees Association (OCEA) represents approximately 11,251 positions in 384 different classifications within the County of Orange. These positions are spread among six different bargaining units represented by OCEA: Community Services, County General, Healthcare Professional, Office Services, Sheriff's Special Officer and Supervisory Management.

On April 17, 2019, representatives from the County and OCEA commenced the meet and confer process to negotiate a successor agreement to the 2018-2019 Memoranda of Understanding (MOU). Over the next six months, the parties met on multiple occasions and collaboratively arrived at a tentative agreement on October 8, 2019, on the proposal under consideration by your Honorable Board of Supervisors (Board).

This agreement reflects the Board's desire to maintain a competitive standing among comparable Southern California counties and cities for recruitment and retention purposes and for the transition of these bargaining units from Annual Leave to a Vacation/Healthcare Leave program.

A summary of the more significant deal points in the 2019-2023 MOU include:

### **Term**

June 21, 2019, through June 29, 2023.

### **Wages**

- Effective the first day of the first full pay period following Board adoption (effective October 25, 2019), the salary schedules will be increased by 2.5 percent.
- Effective July 3, 2020, the salary schedules will be increased by 2.5 percent.
- Effective July 2, 2021, the salary schedules will be increased by 2.5 percent.
- Effective July 1, 2022, the salary schedules will be increased by 3.5 percent.

### **Reverse Pickup Reduction**

- Effective the first day of the first full pay period following Board adoption of these MOUs, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62 percent at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7 percent at 55 benefit formula shall continue to be calculated pursuant to current practices.
- Effective the first day of the first full pay period following Board adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2 percent.
- Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2 percent, for a total fixed ongoing 2.4 percent reduction of the employees' paid reverse pickup.
- Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2 percent for a total fixed ongoing 3.6 percent reduction of the employees' paid reverse pickup.

- By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62 percent at 65 Classic benefit formulas shall be eliminated.

### **Annual Leave – Convert from Annual Leave to Healthcare/Vacation Leave**

Effective as soon as practicable following Board adoption of the MOUs, the parties agree to transition OCEA employees from accruing Annual Leave (AL) to accruing Healthcare Leave and Vacation Leave per agreed upon terms.

### **Vacation**

Effective as soon as practicable following Board adoption, employees with AL balances and 10 years of continuous full-time service may use a maximum of 40 vacation hours each fiscal year for approved time off.

### **Education and Professional Reimbursement**

Effective the first day of the first full pay period following Board adoption, increase the Education and Professional Reimbursement Program from \$3,000 to \$10,000 per fiscal year.

### **Premium Pay**

Effective the first day of the first full pay period following Board adoption, Sheriff's Community Services Officers shall be paid \$1 per hour for all hours assigned to train a new Community Services Officer.

### **Bereavement Leave**

Effective the first day of the first full pay period following Board adoption, eligible employees may use paid bereavement leave related to the death of a family member. Generally, the time off shall be taken in whole shift increments, may be taken nonconsecutively and must be used within six months of the loss.

### **Boots**

Effective the first day of the first full pay period following Board adoption, the parties agreed to add two additional classifications as eligible for safety boot reimbursement and provide department heads, in conjunction with Risk Management, discretion to provide safety boot reimbursement to additional classifications and/or positions for the first year of the contract per the agreed upon terms.

### **Retiree Medical Grant**

The County and OCEA agree to a reopener to facilitate the transition of OCEA members from the County's Retiree Medical Grant into an OCEA managed Retiree Medical Trust which will be a Voluntary Employees Beneficiary Association formed pursuant to Internal Revenue Code Section 501(c)(9) under agreed upon conditions, or similar plan.

### **Defined Contribution Retirement Plan**

The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

## **Miscellaneous**

The proposed MOU includes all negotiated financial and language changes indicated as red-line changes highlighted in yellow. Non-financial changes include other areas of the contract including: workweek schedule for Sheriff's Department classifications assigned to custody or field operations, clarification of leave for attendance at professional conferences, clarification of pay for work on holidays, establishing workgroups to revise existing leave language, identifying other possible classifications and/or positions that may be eligible for safety boot reimbursement and discussing child/dependent care and work-life balance. Red-line changes (without highlighting) reflect administrative clean-up to align language with long-term past practices (e.g., Jail Assignment pay for HCA Service Chiefs, Night Shift Differential for Mental Health Specialists and County contributions to the 401(a) Defined Contribution Plan), correct clerical errors and/or remove obsolete language due to legislative changes that occurred during the term of the contract.

## **FINANCIAL IMPACT:**

The estimated total cost incurred over the term of the MOU is \$334.0 million, \$237.6 million of which is Net County Cost (NCC). \$22.5 million (\$16.0 million NCC) will occur in FY 2019-20; \$66.5 million (\$47.3 million NCC) will occur in FY 2020-21; \$103.3 million (\$73.4 million NCC) will occur in FY 2021-22; \$141.8 million (\$100.9 million NCC) will occur in FY 2022-23.

## **STAFFING IMPACT:**

N/A

## **ATTACHMENT(S):**

Attachment A – 2019-2023 OCEA Community Services Unit MOU  
Attachment B – 2019-2023 OCEA Community Services Unit MOU (red line version)  
Attachment C – 2019-2023 OCEA County General Unit MOU  
Attachment D – 2019-2023 OCEA County General Unit MOU (red line version)  
Attachment E – 2019-2023 OCEA Healthcare Professional Unit MOU  
Attachment F – 2019-2023 OCEA Healthcare Professional Unit MOU (red line version)  
Attachment G – 2019-2023 OCEA Office Services Unit MOU  
Attachment H – 2019-2023 OCEA Office Services Unit MOU (red line version)  
Attachment I – 2019-2023 OCEA Sheriff's Special Officer Unit MOU  
Attachment J – 2019-2023 OCEA Sheriff's Special Officer Unit MOU (red line version)  
Attachment K – 2019-2023 OCEA Supervisory Management Unit MOU  
Attachment L – 2019-2023 OCEA Supervisory Management Unit MOU (red line version)  
Attachment M – October 8, 2019, Signed Deal Points (Tentative Agreement)

**MEMORANDUM  
OF  
UNDERSTANDING**

**COMMUNITY SERVICES  
UNIT**

**2019 – 2023**

**COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION**

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION  
FOR THE  
COMMUNITY SERVICES UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019 sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Community Services Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 Healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE OR HEALTHCARE LEAVE shall mean and be synonymous with the terms "sick" and/or "sick leave."

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 (1) 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.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

PRACTICABLE means 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1.        Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency/Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency proposing implementation of such alternate work schedules.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
- E. 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.

- F. 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.
1. Upon written request by OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement, regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

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, overtime may be converted to compensatory time or paid for at the option of the agency. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) hours may be scheduled off for an employee by his or her agency; 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, 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour.
4. A Mental Health Specialist who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one

dollar and seventy-five (\$1.75) cents per hour for each hours actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

5. A Mental Health Specialist who works an assigned late night shift where the majority of the hours are between 11:00 p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

#### 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 duty requires the employee so assigned to: (1) be reachable by telephone or other communications device; (2) be able to report to work in a reasonable time; and (3) refrain from activities which might impair his or her ability to perform assigned duties.
3. 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 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.

4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Case Call Pay

When a Deputy Public Guardian receives a case call at home, the employee shall be paid at time and one-half (1 1/2) the regular rate with a one (1) hour minimum for each case.

E. Bilingual Pay

1. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine (69) 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 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 Chief Human Resources Officer.
2. Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive in addition to their regular pay, the following amounts:
  - a. Employees in the following classes shall receive an additional ninety (90) cents per hour (approximately one hundred and fifty-six (156) dollars per month) for all hours actually paid:

Community Program Specialist  
Deputy Public Administrator/Public Guardian I  
Deputy Public Administrator/Public Guardian II

Mental Health Specialist  
Mental Health Worker I  
Mental Health Worker II  
Mental Health Worker III  
Senior Deputy Public Administrator/Public  
Guardian

- b. Employees in the following classes shall receive an additional one dollar and fifteen cents (1.15) per hour (approximately one hundred and ninety-nine dollars (199) per month) for all hours actually paid:

Senior Social Worker  
Social Worker Assistant  
Social Worker I  
Social Worker II

- 3. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
- 4. Bilingual pay shall not apply to workers' compensation supplement pay.
- 5. 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 Head, who will consider it according to:
  - a. agency need;
  - b. availability of a qualified replacement; and
  - c. availability of another suitable assignment for the requesting employee.
- 6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

F. Jail Assignment Pay

- 1. Employees in the following classes who are permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services, Headquarters Records, Warrant Bureau), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventy-five (75) cents per hour for all paid hours:

Mental Health Specialist  
Social Worker Assistant  
Social Worker I

## Social Worker II

2. This salary supplement shall not apply to workers' compensation supplement pay, or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

### G. Licensure Differential Pay

Employees in pay status and assigned on a regular full-time basis in the classification of Mental Health Specialist, who are permanently assigned to an adult correctional facilities, ETS, or Westminster TRC, shall receive, in addition to his or her biweekly salary, the equivalent of one hundred ninety five dollars (195) per month (approximately ninety dollars (90) biweekly).

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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, reciting 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 3. 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 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for

employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the Agency Head and shall be based on merit.

- F. If, in the agency'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 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 4. 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, and position responsibilities, approve a rate of pay on promotion not to exceed the top of the pay range to which the employee is being promoted.

## Section 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 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 7. 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.

#### Section 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

#### Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

## ARTICLE III      GENERAL PERSONNEL PROVISIONS

### Section 1.      Probation

#### A.      New Probation

##### 1.      Full-Time Employee

- a.      A new or reemployed employee in a regular or limited-term position in a law enforcement, professional or technical class shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed employee 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 period for twenty-six (26) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

##### 2.      Part-Time Employee

- a.      A new or reemployed part-time employee in a regular or limited-term position in a law enforcement, professional or technical class shall be placed on a new probation period for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed part-time employee 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 period 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 section B.2., below.
  - a.      A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the

remainder of any uncompleted new probation period, whichever is longer.

- b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.
2. When a regular or 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 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 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 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 XVIII, 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 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 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, except as provided in Section 1.E.1., 2 and 3. of this Article, below, and an employee who is permitted by the agency to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. For case-carrying employees, workload shall be considered when evaluating the quality of work performed.
- C. The County shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- D. 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

### 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Agency Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Agency 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 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. 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 Systems (OCERS) to determine the impact of reemployment on their disability retirement benefits prior to accepting reemployment.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 Agency 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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one agency to another.

#### Section 9. On-Duty Meals

- A. The County shall provide meals to personnel employed in residential care institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.
- B. The County shall provide reasonable reimbursement for meals for employees in field assignments who are required by their supervisor to take their meal period while in custodial charge of a client.

#### Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

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

Section 11. Weaponless Defense Training

The Agency will request the Sheriff-Coroner Department to schedule classes in Weaponless Defense Training. Such training will be made available to all employees in the Community Services Unit with first priority to employees in field assignments.

Section 12. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Healthcare Leave

#### A. Accrual of Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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 healthcare 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. Healthcare leave earned shall be added to the employee's healthcare 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. Except as required by law, extra help employees shall not earn healthcare leave.

#### B. Permitted Uses of Healthcare Leave

Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.
3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave

time for the purposes described in Labor Code sections 230(c) and 230.1(a).

4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare leave.
  - c. The Agency 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 with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
6. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
7. 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.
8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.
9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B. above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law, 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 when the agency has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare 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 healthcare 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 healthcare leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's healthcare 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 healthcare 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered

domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.

- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. Agency Leave

A regular, limited-term or probationary employee may request an Agency 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, except in cases where Official Leave has been authorized pursuant to Sections 10, 11.A., and 15, below. The Agency Head may require that all accumulated compensatory leave time be used prior to granting of Agency Leave. The use of earned vacation, or annual leave prior to the obtaining of Agency 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 subsections 2., and 3., below. Such Leave may be authorized only after an employee's completion of an Agency Leave and after all compensatory time and vacation accruals 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 year at the discretion of the agency 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 denies the

extension of such Leave, the provisions of subsections 5. and 6., below, shall not apply.

3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law, shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections B.4., B5., or B.6, of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used);
  - c. When Official Leave is used for all other reasons - 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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 required notice prior to the date he or she wants to return to work, the agency shall not be required to return the employee to work until the employee gives such notice; however, the agency may waive the notice or reduce the notice period at its discretion.
5. Except as to leaves which must be granted pursuant to sections 10, 11 and 15 of this Article, the agency shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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 only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

#### 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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's Agency Head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the Agency Head prior to the expiration of the time limit specified in subsection A., above.

- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 shall not be required to return the employee to work until such notice is given; however, the agency may waive the notice or reduce the notice period at its discretion.

Section 12. Leave for Attendance at Professional Conferences

- A. Employees in this unit may request three (3) working days leave with pay each fiscal year for attendance at professional conferences subject to the following conditions:
1. A request is made in advance on the Agency Request to Attend a Conference form.
  2. The conference is job related.
  3. The employee pays all costs connected with the conference attendance, including registration, meals, transportation and/or lodging, if any.

4. The conference or professional study is located in the United States.
  5. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the Agency Director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.).
  6. The employee's workload is current and his or her performance "meets" or "exceeds" performance objectives.
- B. Attendance at conferences by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for more than three (3) days leave for attendance at a professional conference in any one (1) year under this provision; however, approval shall be at the discretion of the agency.
- E. Attendance at conferences outside of the United States will require approval of a department head.

### Section 13. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.
  5. The employee shall continue to conform to the agency rules and regulations that are not inconsistent with Presidential 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 operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, and healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 15. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family

Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or

registered domestic partner, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency operations.

C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 16. LEAVE LANGUAGE WORKING GROUP

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V        VACATIONSection 1.        Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
- 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 accrual account only upon completion of each pay period.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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 subsection B., above.
- D. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be two hundred forty (240) hours. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours), shall be three hundred twenty (320) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

Section 2.        General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.

- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave 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 approved unpaid Leave.
- E. 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.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. Vacation shall be scheduled for employees by their agency; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to healthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- K. 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, , Election Board Officer or Election Night Help.
- L. 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.
- M. During each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours of accrued vacation. Such

payment shall be made upon request unless the agency determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

- N. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours of accrued vacation. Such payment shall be made upon request unless the agency determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. and 1.E, above) some time during the fiscal year unless the employee is able to cash out vacation time.
2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### Section 1.      Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- A. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C.                During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

### Section 2.      Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
  1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
  5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition

of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.

- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

#### Section 4. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

#### Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
  1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.
- 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.
  
- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII      HOLIDAYS

Section 1.      Holidays Observed

A.    Except as modified below, County employees shall observe the following holidays:

2019:

Independence Day, July 4  
Labor Day, September 2  
Columbus Day, October 14  
Veteran's Day, November 11  
Thanksgiving Day, November 28  
Day After Thanksgiving, November 29  
Christmas Day, December 25

2020

New Year's Day, January 1  
Martin Luther King, Jr.'s Birthday, January 20  
Lincoln's Birthday, February 12  
Washington's Birthday, February 17  
Memorial Day, May 25  
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

2021

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 24 (*Observed*)  
New Year's Day (*Observed*)

2022

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 26 (*Observed*)

2023      New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday, other than Christmas Day, falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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 approval, observe the holiday on December 25. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday.
- F. 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 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
- F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
- G. 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.
- H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994, the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

Section 4. Boots

- A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 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 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify Agency Heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.

- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations 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 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b.. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 knowledge 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 (1) or more functions of one (1) 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 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 except that:
  - 1. Where a class has a dual or multiple concept, the Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations may authorize a layoff by division or smaller unit of an agency.

- 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
Second - New Probationary	Determined by Agency
Third - Regular/Promotional Probationary	Layoff Points

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 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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 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 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 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 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 REINSTATEMENT LISTS pursuant to Section 7.A.3., below.

Section 7. Reemployment Lists

- A. The following persons shall be placed on AGENCY 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 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 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 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 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, other than the agency 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, other than the agency 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 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 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 to another agency occurs, employees previously laid off from such function(s) who are on an AGENCY REINSTATEMENT LIST for the agency losing such function(s), shall be removed from such list and shall be placed on a reinstatement list for the agency acquiring such function(s) and treated in accordance with the preceding provisions of this Section.
  - E. Reemployment lists shall be available to OCEA 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 healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare leave, vacation and annual leave 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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 CASELOAD MANAGEMENT FORUMS

### Section 1. Intent

The County and OCEA encourage responsible caseload levels for case-carrying employees, effective flow of information within the Agency and efficient use of available staff. An intended objective of the management forum shall be that cases be equitably distributed within the various programs.

### Section 2. Establishment of Caseload Management Forums

- A. Within thirty (30) days of the effective date of this Memorandum, the Agency shall establish Caseload Management Forums as follows:
1. A forum shall be established in the Social Services Agency consisting of up to five (5) employee representatives and an equal number of management representatives.
  2. A forum shall be established in the Health Care Agency and shall consist of up to five (5) employee representatives and an equal number of management representatives.
  3. A forum shall be established for Public Administrator/Public Guardian consisting of two (2) employee representatives and an equal number of management representatives.
- B. Employee representatives shall be selected by OCEA. Management representatives shall be selected by the Agency Head. The Social Services Agency will commit to having a high level representative (e.g., Deputy Director) attend the meetings.

### Section 3. Objectives

- A. Each Caseload Management Forum shall meet at least once each month for the purpose of reviewing current caseload management practices, identifying problem areas and exploring potential improvements.
- B. Pursuant to this Article, each Caseload Management Forum will develop specific recommendations including, but not limited to, the following:
1. improved management information systems;
  2. relationships between workload and performance expectations;
  3. manageable caseload levels within budgetary limitations;
  4. methods for achieving equitable distribution of cases.

- C. The Agency management shall review the recommendations of each Caseload Management Forum and, where practicable, adopt procedures addressing the area(s) of concern.
- D. If, after nine (9) months from the effective date of this Agreement, the Association can show that the County has been unresponsive to reasonable employee concern regarding departmental target caseloads, caseload issues shall be reopened upon mutual agreement of the parties.

Section 4. Operating Procedures

- A. Each Caseload Management Forum shall establish its own operating procedures.
- B. Employee representatives shall be allowed reasonable time off without loss of pay to attend meetings.

Section 5. Caseloads

When Agency caseloads are above target, agencies will prioritize case management activities in consultation with the Caseload Management Forum.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA with a listing of all current employees in this Unit. Such file shall include employee name, job classification, agency, timekeeping location, salary range and step. The County shall also provide OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA on agency bulletin boards within the Representation Unit provided such use does not interfere with the needs of the agency 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 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 response to an employee's request for reclassification includes, but is not limited to, denial of request or forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.
  - b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not

agree with the County's decision, the employee may submit the request to OCEA.

- Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.
- Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.
- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
  - b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
  - c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

#### Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article, or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or

3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full-Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – eighty-five (85) percent of the employee’s premium or ninety (90) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive program);
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium for each employee and such employee’s eligible dependents or seventy-five percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 1/2) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  
5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
  
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall

require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

### Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll

in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5)

years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopening, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6 Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which was expected to begin in 2018, but was delayed until 2020. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

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<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979 the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
- a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates will continue to be established and adjusted subsequent to and in accordance with state law and actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees shall pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

### 3. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC Plan, not to exceed two (2) percent of the employee's base salary (the "match"). County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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.

### Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Community Services Unit for classes in effect on June 221, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV      PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  - 1. Every agency/department shall have an LMC.
  - 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  - 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.
2. Effective July 3, 2020, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

Article XXVIII      DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Section 1.      Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the Community Services Unit as of June 21, 2019:

7055CS	Community Program Specialist
7120CS	Community Worker I
7123CS	Community Worker II
0366CS	Deputy Public Administrator I
0367CS	Deputy Public Administrator II
0371CS	Deputy Public Guardian I
0372CS	Deputy Public Guardian II
7107CS	Health Program Specialist
2143CS	Housing Contract Representative
2150CS	Housing Specialist I
2151CS	Housing Specialist II
2152CS	Housing Specialist III
7105CS	Mental Health Specialist
7102CS	Mental Health Worker I
7104CS	Mental Health Worker II
7106CS	Mental Health Worker III
4961CS	Senior Citizens Representative I
4962CS	Senior Citizens Representative II
0369CS	Senior Deputy Public Administrator
0373CS	Senior Deputy Public Guardian
7017CS	Senior Social Worker
7007CS	Social Worker Assistant
7008CS	Social Worker I
7012CS	Social Worker II
7208CS	Veterans Claims Representative
7098CS	Volunteer Services Coordinator II

# MEMORANDUM OF UNDERSTANDING

## COMMUNITY SERVICES UNIT

**20198 – 202319**

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING

~~2019~~8 - 20~~23~~19

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AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

COMMUNITY SERVICES UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on (~~July 31, 2018~~October 22, 2019) sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Community Services Unit for the period beginning June ~~21~~13, 2019~~8~~ through June ~~29~~20, 2023~~19~~. Unless otherwise indicated herein, all provisions shall become effective ~~June 23, 2018~~October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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-Healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE OR HEALTHCARE LEAVE shall mean and be synonymous with the terms "sick" and/or "sick leave."

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 (1) 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.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

PRACTICABLE means 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1. Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency/Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency proposing implementation of such alternate work schedules.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
- E. 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.

- F. 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.
1. Upon written request by OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement, regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

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, overtime may be converted to compensatory time or paid for at the option of the agency. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) hours may be scheduled off for an employee by his or her agency; 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, 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### 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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour.

4. A Mental Health Specialist who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one dollar and seventy-five (\$1.75) cents per hour for each hours actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.
5. A Mental Health Specialist who works an assigned late night shift where the majority of the hours are between 11:00 p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

#### 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 duty requires the employee so assigned to: (1) be reachable by telephone or other communications device; (2) be able to report to work in a reasonable time; and (3) refrain from activities which might impair his or her ability to perform assigned duties.
3. 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 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.

3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Case Call Pay

When a Deputy Public Guardian receives a case call at home, the employee shall be paid at time and one-half (1 1/2) the regular rate with a one (1) hour minimum for each case.

E. Bilingual Pay

1. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine (69) 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 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 Chief Human Resources Officer.
2. Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive in addition to their regular pay, the following amounts:
  - a. Employees in the following classes shall receive an additional ninety (90) cents per hour (approximately one hundred and fifty-six (156) dollars per month) for all hours actually paid:

Community Program Specialist  
Deputy Public Administrator/Public Guardian I  
Deputy Public Administrator/Public Guardian II  
Mental Health Specialist  
Mental Health Worker I  
Mental Health Worker II  
Mental Health Worker III  
Senior Deputy Public Administrator/Public  
Guardian

- b. Employees in the following classes shall receive an additional one dollar and fifteen cents (1.15) per hour (approximately one hundred and ninety-nine dollars (199) per month) for all hours actually paid:

Senior Social Worker  
Social Worker Assistant  
Social Worker I  
Social Worker II

- 3. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
- 4. Bilingual pay shall not apply to workers' compensation supplement pay.
- 5. 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 Head, who will consider it according to:
  - a. agency need;
  - b. availability of a qualified replacement; and
  - c. availability of another suitable assignment for the requesting employee.
- 6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

F. Jail Assignment Pay

- 1. Employees in the following classes who are permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services, Headquarters Records, Warrant Bureau), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventy-five (75) cents per hour for all paid hours:

Mental Health Specialist  
Social Worker Assistant  
Social Worker I  
Social Worker II

2. This salary supplement shall not apply to workers' compensation supplement pay, or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

G. Licensure Differential Pay

Employees in pay status and assigned on a regular full-time basis in the classification of Mental Health Specialist, who are permanently assigned to an adult correctional facilities, ETS, or Westminster TRC, shall receive, in addition to his or her biweekly salary, the equivalent of one hundred ninety five dollars (195) per month (approximately ninety dollars (90) biweekly).

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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, reciting 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 3. 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 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for

employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the Agency Head and shall be based on merit.

- F. If, in the agency'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 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 4. 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, and position responsibilities, approve a rate of pay on promotion not to exceed the top of the pay range to which the employee is being promoted.

## Section 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 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 7. 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.

#### Section 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the~~

~~term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated.~~ The County ~~therefore~~ agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

## ARTICLE III      GENERAL PERSONNEL PROVISIONS

### Section 1.      Probation

#### A.      New Probation

##### 1.      Full-Time Employee

- a.      A new or reemployed employee in a regular or limited-term position in a law enforcement, professional or technical class shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed employee 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 period for twenty-six (26) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

##### 2.      Part-Time Employee

- a.      A new or reemployed part-time employee in a regular or limited-term position in a law enforcement, professional or technical class shall be placed on a new probation period for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed part-time employee 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 period 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 section B.2., below.
  - a.      A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the

remainder of any uncompleted new probation period, whichever is longer.

- b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.
2. When a regular or 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 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 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 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 XVIII, 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 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 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, except as provided in Section 1.E.1., 2 and 3. of this Article, below, and an employee who is permitted by the agency to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. For case-carrying employees, workload shall be considered when evaluating the quality of work performed.
- C. The County shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- D. 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

### 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 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 annual leave, vacation and sick-healthcare 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 annual leave, vacation and sick-healthcare leave accrual, 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 section E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Agency Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Agency 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 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. 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 Systems (OCERS) to determine the impact of reemployment on their disability retirement benefits prior to accepting reemployment.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 Agency 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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one agency to another.

#### Section 9. On-Duty Meals

- A. The County shall provide meals to personnel employed in residential care institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.
- B. The County shall provide reasonable reimbursement for meals for employees in field assignments who are required by their supervisor to take their meal period while in custodial charge of a client.

#### Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

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

Section 11. Weaponless Defense Training

The Agency will request the Sheriff-Coroner Department to schedule classes in Weaponless Defense Training. Such training will be made available to all employees in the Community Services Unit with first priority to employees in field assignments.

Section 12. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Sick-Healthcare Leave

~~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.~~

#### A. Accumulation-Accrual of Sick-Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of sick-healthcare 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-healthcare 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. sickHealthcare leave earned shall be added to the employee's sickhealthcare 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. Except as required by law, extra help employees shall not earn sickhealthcare leave.

#### B. Permitted Uses of sickHealthcare Leave

sickHealthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. ~~Medical and dental office appointments when absence during working hours for this purpose is authorized by the agency.~~

~~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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. ~~Use of this leave is limited to the time period specified in Labor Code section 233.~~

~~5.~~

5. Absence from duty because: ~~(1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(e).~~

~~4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.~~

6. Illness while on paid vacation will be charged to ~~sickhealthcare~~ 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 sickhealthcare leave.
- c. The Agency 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 with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.

~~7. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.~~

~~68.~~ An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

~~37. 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.~~

~~8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.~~

~~9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.;~~

#### C. Prohibited Uses of SickHealthcare Leave

1. SickHealthcare leave shall not be applied to:

~~1.~~ a. Absence caused by illness or injury to a member of the employee's family except as provided in B-~~4., B.5., B.6., or B.8.~~ above.

~~2.~~ b. Absences which occur on a County holiday.

~~2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.~~

#### D. General Provisions

1. In any use of **sickhealthcare** leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law, 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 when the agency has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. **Employees hired on or after July 15, 1977 are not eligible for any payoff of sick/healthcare leave. Employees hired before July 15, 1977 are eligible for sick/healthcare leave payoff under the following conditions:**
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused **sickhealthcare** leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused SickHealthcare 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/healthcare** 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/healthcare** leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of **sick/healthcare** leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's **sick/healthcare** 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/healthcare 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. Such request must be made at least thirty (30) 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.~~

6. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency, apply the period of previous County continuous service for the purpose of determining sickhealthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sickhealthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sickhealthcare days and to accrue additional paid sickhealthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.

B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) days in any one (1) instance regularly scheduled shifts for each death, to arrange for or attend a funeral of a member of their immediate family and

~~employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, step-child, grandparent, grandchild or legal guardian.~~

C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. Agency Leave

A regular, limited-term or probationary employee may request an Agency 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, except in cases where Official Leave has been authorized pursuant to Sections 10, 11.A., and 15, below. The Agency Head may require that all accumulated compensatory leave time be used prior to granting of Agency Leave. The use of earned vacation, or annual leave prior to the obtaining of Agency 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 subsections 2., and 3., below. Such Leave may be authorized only after an employee's completion of an Agency Leave and after all compensatory time and vacation accruals 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 year at the discretion of the agency 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 denies the extension of such Leave, the provisions of subsections 5. and 6., below, shall not apply.

3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law, shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, **sickhealthcare** leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections B.4., B5., or B.6, of this Article – after all accumulated compensatory time, vacation, **sickhealthcare** leave (to the extent available to the employee for such use) and annual leave have been used);
  - c. When Official Leave is used for all other reasons - 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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 required notice prior to the date he or she wants to return to work, the agency shall not be required to return the employee to work until the employee gives such notice; however, the agency may waive the notice or reduce the notice period at its discretion.
5. Except as to leaves which must be granted pursuant to sections 10, 11 and 15 of this Article, the agency shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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 only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

#### 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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
2. Such Leave shall begin after all accrued **sickhealthcare** leave, compensatory, vacation time and/or annual leave have been applied toward the absence.

1.3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)

4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.

C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's Agency Head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of **sickhealthcare** leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the Agency Head prior to the expiration of the time limit specified in subsection A., above.

- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. SickHealthcare leave or annual leave must 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 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 11. 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 sickhealthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 shall not be required to return the employee to work until such notice is given; however, the agency may waive the notice or reduce the notice period at its discretion.

## Section 12. Leave for Attendance at Professional Conferences

- A. Employees in this unit may request three (3) working days leave with pay each fiscal year for attendance at professional conferences subject to the following conditions:
1. A request is made in advance on the Agency Request to Attend a Conference form.
  2. The conference is job related.
  3. The employee pays all costs connected with the conference attendance, including registration, meals, transportation and/or lodging, if any.

4. The conference or professional study is located in the United States.

54. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the Agency Director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.).

65. The employee's workload is current and his or her performance "meets" or "exceeds" performance objectives.

B. Attendance at conferences by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.

C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.

D. Requests may be made for more than three (3) days leave for attendance at a professional conference in any one (1) year under this provision; however, approval shall be at the discretion of the agency.

E. Attendance at conferences outside of the ~~general area~~ United States will require approval ~~under the County Travel Request procedure and is not covered by this provision of a department head.~~

Section 13. OCEA Presidential Leave

A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:

1. The Presidential Leave shall be for a minimum of eight (8) hours.
2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
4. OCEA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.

5. The employee shall continue to conform to the agency rules and regulations that are not inconsistent with Presidential 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 operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, ~~annual leave~~ and ~~sickhealthcare~~ 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

#### Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 15. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family

Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency shall determine whether annual leave, sickhealthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of sickhealthcare 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 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic partner, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency operations.

C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

**Section 16. LEAVE LANGUAGE WORKING GROUP**

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V VACATIONSection 1. Accumulation of Vacation Accrual

~~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.~~

- A. ~~During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a prorated basis. Such credit shall be applied to the employee's vacation accumulation-accrual account only upon completion of each pay period.~~
- 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-accrual 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 (20,804-20,800 regularly scheduled hours), 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 subsection 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.~~
- D.E. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employees with less than ten (10) years of full-time continuous County service shall be two hundred forty (240) hours ~~or a prorated amount equal to six (6) weeks of vacation and one hundred twenty (120) hours of vacation for part-time employees.~~ The maximum allowable

vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time~~ continuous County service (20,801-20,800 regularly scheduled hours), shall be three hundred twenty (320) hours ~~and a prorated amount equal to eight (8) weeks one hundred sixty (160) hours of vacation for part-time employees~~. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.

BA. Not more than eighty (80) hours of paid time may be credited toward ~~accumulation~~ accrual of vacation credit in any pay period.

C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,801-20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

DB. Approved unpaid leaves, including Non-Medical Discretionary An-Official Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave 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 approved unpaid Leave.

EG. 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.

FD. Additional vacation earned during the period of vacation may be taken consecutively.

GE. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

HF. Vacation shall be scheduled for employees by their agency; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.

- IG. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- JH. Illness while on paid vacation will be charged to sickhealthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- KI. 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.
- LJ. 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.
- KM. During each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours of accrued vacation. Such payment shall be made upon request unless the agency determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.
- LN. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours of accrued vacation. Such payment shall be made upon request unless the agency determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the

applicable cap (as set forth in Section 1.D. and 1.E, above) some time during the fiscal year unless the employee is able to cash out vacation time.

2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### 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 full-time 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 balance 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 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.

A. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,801-20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided

they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid **sickhealthcare** leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered **sickhealthcare** leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

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

#### 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 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 (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.~~

**EA.** In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~

**BG.** 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.

~~H. 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 the 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. Payoff of Unused Annual Leave Payoff Provisions

A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:

1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.

2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.

~~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. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees

with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.

E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII HOLIDAYSSection 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

~~2018: Independence Day, July 4  
 Labor Day, September 3  
 Columbus Day, October 8  
 Veteran's Day, November 12  
 Thanksgiving Day, November 22  
 Day After Thanksgiving, November 23  
 Christmas Day, December 25~~

2019: ~~New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 21  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 18  
 Memorial Day, May 27~~  
Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

~~2020 New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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~~

~~2021 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 24 ( <i>Observed</i> )
	New Year's Day ( <i>Observed</i> )
2022	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 26 ( <i>Observed</i> )
2023	New Year's Day, January 2 ( <i>Observed</i> )
	Martin Luther King, Jr.'s Birthday, January 16
	Lincoln's Birthday, February 12
	Washington's Birthday, February 20
	Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday, other than Christmas Day, falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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 approval, observe the holiday on December 25. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday.
- F. 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 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

GF. 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.

HG. 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 PROGRAMSSection 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994, the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## Section 4. Boots

A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.

B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 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 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify Agency Heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.

- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations 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 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b.. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 knowledge 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 (1) or more functions of one (1) 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 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 except that:
  - 1. Where a class has a dual or multiple concept, the Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations may authorize a layoff by division or smaller unit of an agency.

- 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
Second - New Probationary	Determined by Agency
Third - Regular/Promotional Probationary	Layoff Points

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 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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 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 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 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 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 REINSTATEMENT LISTS pursuant to Section 7.A.3., below.

Section 7. Reemployment Lists

- A. The following persons shall be placed on AGENCY 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 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 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 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 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, other than the agency 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, other than the agency 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 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 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 to another agency occurs, employees previously laid off from such function(s) who are on an AGENCY REINSTATEMENT LIST for the agency losing such function(s), shall be removed from such list and shall be placed on a reinstatement list for the agency acquiring such function(s) and treated in accordance with the preceding provisions of this Section.
  - E. Reemployment lists shall be available to OCEA 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/healthcare leave~~ credited to the employee's account or any unpaid annual leave 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 annual leave, ~~sick-healthcare~~ leave and vacation, 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 Chief Human Resources Officer.
  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 **sick/healthcare** leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any **sick/healthcare** leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue **sick/healthcare** leave, annual 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 **sick/healthcare** leave, compensatory time, annual leave and/or vacation expended since the fourth 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 **healthcaresick** leave, compensatory time, annual leave 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 sick/healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 sick/healthcare leave, vacation and annual leave 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, healthcaresick 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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 CASELOAD MANAGEMENT FORUMS

### Section 1. Intent

The County and OCEA encourage responsible caseload levels for case-carrying employees, effective flow of information within the Agency and efficient use of available staff. An intended objective of the management forum shall be that cases be equitably distributed within the various programs.

### Section 2. Establishment of Caseload Management Forums

- A. Within thirty (30) days of the effective date of this Memorandum, the Agency shall establish Caseload Management Forums as follows:
1. A forum shall be established in the Social Services Agency consisting of up to five (5) employee representatives and an equal number of management representatives.
  2. A forum shall be established in the Health Care Agency and shall consist of up to five (5) employee representatives and an equal number of management representatives.
  3. A forum shall be established for Public Administrator/Public Guardian consisting of two (2) employee representatives and an equal number of management representatives.
- B. Employee representatives shall be selected by OCEA. Management representatives shall be selected by the Agency Head. The Social Services Agency will commit to having a high level representative (e.g., Deputy Director) attend the meetings.

### Section 3. Objectives

- A. Each Caseload Management Forum shall meet at least once each month for the purpose of reviewing current caseload management practices, identifying problem areas and exploring potential improvements.
- B. Pursuant to this Article, each Caseload Management Forum will develop specific recommendations including, but not limited to, the following:
1. improved management information systems;
  2. relationships between workload and performance expectations;
  3. manageable caseload levels within budgetary limitations;
  4. methods for achieving equitable distribution of cases.

- C. The Agency management shall review the recommendations of each Caseload Management Forum and, where practicable, adopt procedures addressing the area(s) of concern.
- D. If, after nine (9) months from the effective date of this Agreement, the Association can show that the County has been unresponsive to reasonable employee concern regarding departmental target caseloads, caseload issues shall be reopened upon mutual agreement of the parties.

Section 4. Operating Procedures

- A. Each Caseload Management Forum shall establish its own operating procedures.
- B. Employee representatives shall be allowed reasonable time off without loss of pay to attend meetings.

Section 5. Caseloads

When Agency caseloads are above target, agencies will prioritize case management activities in consultation with the Caseload Management Forum.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA with a listing of all current employees in this Unit. Such file shall include employee name, job classification, agency, timekeeping location, salary range and step. The County shall also provide OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA on agency bulletin boards within the Representation Unit provided such use does not interfere with the needs of the agency 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 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 response to an employee's request for reclassification includes, but is not limited to, denial of request or forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.
  - b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not

agree with the County's decision, the employee may submit the request to OCEA.

- Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.
- Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.
- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
  - b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
  - c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

#### Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article, or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or

3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full-Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive program);
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium for each employee and such employee's eligible dependents or seventy-five percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 1/2) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.

3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall

require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll

in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5)

years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

**E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust**

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

**9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.**

Section 6 ~~Working Group and~~ Reopener

Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which was expected to begin in 2018, but was delayed until 2020. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979 the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
  - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
  2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

Section 2. Retirement Contributions

- A. Members' normal contribution rates will continue to be established and adjusted subsequent to and in accordance with state law and actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees shall pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative ratio based methodology will be used to determine the additional employee contribution toward the "2.7% at 55" retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRAs and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce

Reverse Pickup by an ongoing 1.2%.

c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.

d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date,~~ The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the DC Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the DC Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Community Services Unit for classes in effect on June ~~23, 2018~~21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV      PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  1. Every agency/department shall have an LMC.
  2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this ~~2018-2019~~2019-2023 MOU, the salary schedule will be increased by ~~4.50~~2.50%.
2. Effective ~~January 4~~July 3, 2019~~2020~~, the salary schedule will be increased by ~~2.50~~1.00%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

**Article XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

**Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.**

## APPENDIX A

Classes included in the Community Services Unit as of **June 21, 2019**:

7055CS	Community Program Specialist
7120CS	Community Worker I
7123CS	Community Worker II
0366CS	Deputy Public Administrator <u>I</u>
0367CS	Deputy Public Administrator <u>II</u>
0371CS	Deputy Public Guardian I
0372CS	Deputy Public Guardian II
7107CS	Health Program Specialist
2143CS	Housing Contract Representative
2150CS	Housing Specialist I
2151CS	Housing Specialist II
2152CS	Housing Specialist III
7105CS	Mental Health Specialist
7102CS	Mental Health Worker I
7104CS	Mental Health Worker II
7106CS	Mental Health Worker III
4961CS	Senior Citizens Representative I
4962CS	Senior Citizens Representative II
0369CS	Senior Deputy Public Administrator
0373CS	Senior Deputy Public Guardian
7017CS	Senior Social Worker
7007CS	Social Worker Assistant
7008CS	Social Worker I
7012CS	Social Worker II
7208CS	Veterans Claims Representative
7098CS	Volunteer Services Coordinator II

# MEMORANDUM OF UNDERSTANDING

COUNTY GENERAL  
UNIT

**2019 – 2023**

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION  
FOR THE  
COUNTY GENERAL UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019 sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the County General Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the term "sick" or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1.        Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. An employee in the class of Radio Dispatcher, Cook Trainee, Institutional Cook, Senior Institutional Cook, or Correctional Services Technician may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40) hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the department.

4. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
  5. An employee in the classification of Animal Control Officer or Senior Animal Control Officer who is assigned as the Graveyard Shift Officer or assigned to the Potentially Dangerous or Vicious Dog Compliance Check Program may volunteer to work a modified work schedule consisting of three (3) twelve (12) hour workdays every other week and four (4) eleven (11) hour workdays on alternate weeks. Management reserves the right to implement any other established schedule should the aforementioned modified schedule not meet business needs.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
  - E. 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.
  - F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

### C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

Section 4. Exclusions from Workweek and Overtime Provisions

Employees in the classes of Real Property Agent I, Real Property Agent II, and Real Property Agent III, shall not be subject to the provisions of Sections 1., 2. or 3. above.

Section 5. 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. Except as provided in 3.a, 3.b, and 3.c below, 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. Except as provided in 3.a, 3.b, and 3.c below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour, except that:
  - a. Employees in the classification of Medical Assistant shall receive night shift differential at a rate of one dollar and twenty-five cents (\$1.25) per hour.
  - b. Employees in the classification of Medical Assistant who work an assigned night shift where the majority of hours are between 5:00 p.m. to 11:00 p.m. shall be paid night shift differential at a rate of one dollar and seventy-five cents (\$1.75). Hours worked as an extension of an assigned shift eligible for Night Shift Differential under 2. above shall be paid at the same rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.
  - c. Employees in the classification of Medical Assistant who work an assigned night shift where the majority of hours are between 11:00

p.m. to 7:00 a.m. shall be paid night shift differential at a rate of two dollars and seventy-five cents (\$2.75). Hours worked as an extension of an assigned shift eligible for Night Shift Differential under 2. above shall be paid at the same rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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. Except as provided in 5.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.

5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.

2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Collection Officer  
 Correctional Programs Technician  
 Defense Investigator I  
 Defense Investigator II  
 Defense Investigator III  
 Defense Investigator Trainee  
 Family Support Officer  
 Financial Counselor I  
 Financial Counselor II  
 Financial Counselor III  
 Health Education Associate  
 Investigative Assistant, District Attorney  
 Investigative Assistant, Sheriff

Paralegal  
Paralegal Trainee  
Public Defender Interviewer I  
Public Defender Interviewer II  
Public Health Investigator  
Public Health Investigator Trainee  
Senior Family Support Officer

3. Counselor Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c., above, are regularly assigned by agency/department management to perform their duties in a language other than English shall receive an additional sixty (60) cents per hour for all hours actually paid:

Group Counselor I  
Group Counselor II  
Group Counselor Night

4. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
5. Bilingual pay shall not apply to workers' compensation supplement pay.
6. 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.
7. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

E. Communications Coordinator Salary Supplement

A Communications Coordinator II shall receive a salary supplement for each hour actually worked on the paramedic radio communications console when assigned four (4) consecutive hours or more to that console. The rate of the salary supplement shall be equivalent to an additional five and one-half (5 1/2) percent.

F. Height Premium Pay

Communications Technicians and Installers who, as a condition of their assigned tasks, must work upon towers or poles fifty-nine (59) feet or higher shall receive Height Premium Pay. Height Premium Pay will be paid only for those hours actually spent working at heights above forty (40) feet provided that there shall be a minimum two (2) hour payment for any day in which qualifying work is performed. The rate for Height Premium Pay shall be fifty (50) cents per hour.

G. Jail Salary Supplement

1. An employee classified in one of the classes listed below who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services, Headquarters Records, Warrant Bureau), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours:

Communications Technician I  
 Communications Technician II  
 Dispatch Services Operator  
 Pharmacy Technician  
 Pharmacy Technician Trainee  
 Staff Assistant  
 Staff Specialist  
 Utility Worker/Driver  
 Warehouse Worker I  
 Warehouse Worker II  
 Warehouse Worker III  
 Warehouse Worker IV

2. An employee in the classification of Shop Planner- Electrical/Mechanical, Shop Planner-Structural, or Medical Assistant who is permanently assigned to the Central Jail/Intake/Release Center, Theo Lacy Branch Jail or James Musick Facility shall receive, in addition to biweekly salary, an additional seventy-five (75) cents per hour for all hours paid.

3. This salary supplement shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

#### H. Confined Spaces Pay

1. Maintenance Inspector/Specialists who are regularly assigned to the Public Works Operations Confined Space Inspection Team shall receive one dollar and twenty-five (\$1.25) cents per hour for those hours actually spent working in confined spaces, as defined in subsection 2., 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.
2. 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 include compartments, ducts, sewers, pipelines, vaults and pits.

#### I. Training Assignment Pay

1. Employees in the classification of Communications Coordinator I and II, Correctional Services Assistant, Correctional Services Technician and Radio Dispatcher shall be paid one (1) dollar per hour for all hours assigned to perform training functions.
2. Effective the first day of the first full pay period following Board of Supervisors' adoption of this MOU, employees in the classification of Sheriff's Community Services Officer shall be paid one (1) dollar for all hours assigned to train a new Community Services Officer.

#### J. Toxic Hazard Assignment Pay

Employees on pay status in the classification series of Forensic Scientist and the classification series of Forensic Specialist who are assigned to the Clandestine Lab Section of Forensic Services shall receive one hundred seventy-five (175) dollars per month (approximately \$80.77 per pay period).

#### K. Advanced Certification Pay

The following employees shall receive, in addition to their bi-weekly salary, the equivalent of one hundred nineteen (119) dollars a month or approximately fifty-five (55) dollars bi-weekly for receiving an Advanced Appraisal Certificate issued by the State Board of Equalization.

Appraiser I  
Appraiser II  
Appraiser III  
Auditor Appraiser I  
Auditor Appraiser II  
Auditor Appraiser III

L. Commercial Driver's License Pay

Employees in the classifications of Agricultural Standards Technician and Agricultural Standards Inspector 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 actually 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the agency/department head and shall be based on merit.
- 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes 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 10. 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.

Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

## ARTICLE III      GENERAL PERSONNEL PROVISIONS

### Section 1.      Probation

#### A.      New Probation

##### 1.      Full-Time Employee

- a.      A new or reemployed employee in a regular or limited-term position in a law enforcement professional or technical class shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed employee 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 period for twenty-six weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

##### 2.      Part-Time Employee

- a.      A new or reemployed part-time employee in a regular or limited-term position in a law enforcement professional or technical class shall be placed on a new probation period for two thousand eighty (2080) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed part-time employee 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 period 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 section B.2., below.
  - a.      A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

- b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.
2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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/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, except as provided in E.1., 2. and 3. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

### 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section 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.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

#### Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "Meets" or "Exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Healthcare Leave

#### A. Accrual of Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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 healthcare 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. Healthcare leave earned shall be added to the employee's healthcare 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. Except as required by law, extra help employees shall not earn healthcare leave.

#### B. Permitted Uses of Healthcare Leave

Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.

Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).
4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare 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. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
7. 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.
8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.

9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare 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 healthcare 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 healthcare leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's healthcare 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 healthcare 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death.
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources

Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.

- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.

- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
  - 1. a statement of the County's intention to implement 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 effective date of such proposed action;
  - 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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.

- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.

3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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/departamental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation and healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
- H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

### Section 14. Family Leave

#### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line

of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.

3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic partner, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency/department operations.

#### Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

#### Section 15. Attendance at Professional Conferences or to Conduct Professional Study

- A. Employees in the classifications of Medical Assistant, Health Education Assistant or Health Education Associate may request five (5) working days leave with pay each fiscal year for attendance at professional conferences, or

to conduct professional study (which may include home or web-based study), subject to the following conditions:

1. A request is made in advance on the Request to Attend a Conference Form or Request to Conduct Professional Study Form.
  2. The conference or professional study is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
  3. The employee pays all costs connected with the conference attendance or professional study, including registration, meals, transportation and/or lodging, if any.
  4. The conference or professional study is located in the United States.
  5. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.) and in the case of professional study, appropriate certification of CEU credits.
  6. The employee's workload is current and his or her performance "meets" or "exceeds" performance expectations.
- B. Attendance at conferences or requests to conduct professional study by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for more than five (5) days Leave for attendance at a professional conference or to conduct professional study in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.
- E. Attendance at conferences outside of the United States will require approval of a department head.

Section 16. LEAVE LANGUAGE WORKING GROUP

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V        VACATIONSection 1.        Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
- B. After an employee in a regular or limited-term position has been paid for six thousand two hundred forty (6,240) 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 accrual account only upon completion of each pay period.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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 subsection B., above.
- E. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be two hundred forty (240) hours.

The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be three hundred twenty (320) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

- F. Employees in the classes of Real Property Agent I, Real Property Agent II, and Real Property Agent III, shall earn an additional .0193 hours of vacation for each hour of pay during the regularly scheduled workweek, but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such additional credit shall be applied to vacation accrual account only upon completion of each pay period. The maximum allowable vacation credit at any one (1) time for employees in the above classes with less than ten (10) years of continuous County service shall be three hundred twenty (320) hours. The maximum allowable vacation credit at any one (1) time for

employees in the above classes with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be four hundred (400) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

Section 2. General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.
- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Section 1.C. and E.) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave.
- E. 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. and E) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. 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.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to healthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.

- K. 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, Election Board Officer or Election Night Help.
- L. 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.
- M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

1. After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.
2. After annual leave has been exhausted, during each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Animal Control Officer  
 Animal Control Officer Trainee  
 Correctional Services Technician  
 Dispatch Services Operator  
 Radio Dispatcher  
 Radio Dispatcher Trainee  
 Senior Animal Control Officer  
 Sheriffs Community Services Officer

- B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave
1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. and 1.E, above) some time during the fiscal year unless the employee is able to cash out vacation time.
  2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### Section 1.      Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

### Section 2.      Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
  - 1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  - 2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  - 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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
  - 5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition

of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.

- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

Section 4. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
  - 1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  - 2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.
- 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% (320 hours for Real Property Agent I, II and III)
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 320 hours are paid at 100% (400 hours for Real Property Agent I, II and III); the remaining balance, after the 320 hours (400 hours for Real Property Agent I, II and III) 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours (320 hours for Real Property Agent I, II and III) for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours (400 hours for Real Property Agent I, II and III) for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Sections 1.D. and E. Remaining hours, up to the accrual limits specified in Article V, Sections 1.D. and E., will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.
  
- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII     HOLIDAYSSection 1.     Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

- 2019:           Independence Day, July 4  
                   Labor Day, September 2  
                   Columbus Day, October 14  
                   Veteran's Day, November 11  
                   Thanksgiving Day, November 28  
                   Day After Thanksgiving, November 29  
                   Christmas Day, December 25
- 2020:           New Year's Day, January 1  
                   Martin Luther King, Jr.'s Birthday, January 20  
                   Lincoln's Birthday, February 12  
                   Washington's Birthday, February 17  
                   Memorial Day, May 25  
                   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
- 2021:           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 24 (*Observed*)  
                   New Year's Day (*Observed*)
- 2022:           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 26 (*Observed*)

2023: New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.
- F. 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
  - F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation, or annual leave balance.
  - G. 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.
  - H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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

Employees in the below listed classes who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred (400) dollars per fiscal year. Eligible employees shall include employees in the following classes:

- Communications Installer
- Communications Installer Technician
- Communications Technician I
- Communications Technician II
- Investigative Technician I, DA
- Investigative Technician II, DA
- Sound Systems Technician

## Section 4. Boots

- A. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty dollars (\$150) per fiscal year.

- Animal Control Assistant
- Animal Control Public Education Officer
- Animal Control Officer Trainee
- Animal Control Officer
- Building Inspector I
- Building Inspector II
- Building Inspector III
- Building Inspector IV
- Planner I assigned to Planning and Development Services  
Department – Code Enforcement
- Safety and Training Officer assigned to OC Public Works
- Senior Animal Control Officer
- Senior Waste Inspector, OCWR
- Waste Inspector, Trainee
- Waste Inspector

- B. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to one hundred fifty dollars (\$150) per fiscal year.

Construction Inspector  
Senior Construction Inspector

- C. Employees in the below listed classes that are regularly assigned field assignments and who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred fifty dollars (\$150) per fiscal year.

Engineering Technician Trainee  
Engineering Technician  
Senior Engineering Technician  
Engineering Geologist  
Maintenance Inspector Specialist  
Surveyor I  
Surveyor II

- D. Employees of the Orange County Public Works Dept. (OCPW) in the below listed classes that are regularly assigned field or wilderness assignments and who are required to furnish their own safety work boots shall be eligible for reimbursement up to a maximum of \$150 per fiscal year:

Agricultural Standards Technician  
Agricultural Standards Inspector  
Civil Engineer (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)  
Civil Engineer Assistant (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)  
Environmental Resource Specialist  
Environmental Resource Technician

- E. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- F. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

#### Section 5. Educational and Professional Reimbursement

- A. Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and

conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 XVII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and OCEA?
  - 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 OCEA?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no violation of Article XVII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds a violation of Article XVII, 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 XVII, 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. Except as otherwise required by law, 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 XVII, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
  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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 PROCEDURESection 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 OCEA 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 healthcare leave credited to the employee's account or unpaid annual leave 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  - 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare leave, vacation and annual leave 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

- A. The County will provide uniforms for regular employees in the following assignments:
1. Public Works Department  
Information Technologist II assigned to Facilities Operations  
Warehouse Worker I, II, III and IV  
Weed Abatement Inspector
  2. Probation Department  
Food Service Worker  
Institutional Cook  
Senior Institutional Cook
  3. Sheriff - Coroner Department  
Institutional Cook  
Senior Institutional Cook  
Correctional Services Technician  
Cook Trainee  
Radio Dispatcher
- B. 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.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
    - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
    - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee's eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
    - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
    - a. Employee Only Coverage – one hundred (100) percent of the premium;
    - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
  4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.
- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

### Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

B. Retiree Medical Plan Lump Sum; Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension

under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6. Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>i</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

<sup>i</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1      An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2      The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.      The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA").
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.
    - c. In the event an eligible employee elects the "1.62% at 65" benefit formula, the employee shall be eligible to participate in

the County 1.62 Retirement 457(b) Defined Contribution Plan (the "DC Plan") described in Section 3 below.

- d. Effective with the beginning of pay period following the date an employee elects the "1.62% at 65" benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of "2.7% at 55" or "1.62 at 65" Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
    - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
    - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the "2.7% at 55" benefit formula or the "1.62% at 65" benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
    - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the "1.62% at 65" benefit formula.
    - d. An employee who elected, or was deemed to have elected, the "1.62% at 65" benefit formula is eligible to participate in the "DC Plan" described in Section 3 below.
    - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee's hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the "1.62% at 65" benefit formula are not retroactive to the employee's date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the "1.62% at 65" benefit formula.
    - f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.

- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
- The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below.
  - “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

### 3. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.
- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC Plan, not to exceed two (2) percent of the employee's base salary (the "match"). County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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.

### Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the General Unit for classes in effect on June 21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year. All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
- 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
- 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.
2. Effective July 3, 2020, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

Article XXVIII      DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Section 1.      Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the County General Unit as of June 21, 2019:

7806GE Accountant/Auditor I  
 7807GE Accountant/Auditor II  
 5015GE Agricultural/Standards Inspector  
 5010GE Agricultural/Standards Technician  
 5220GE Airport Access/Noise Specialist I  
 5224GE Airport Access/Noise Specialist II  
 5500GE Airport Operations Officer  
 5357GE Airport Technical Associate  
 5917GE Animal Control Assistant  
 5905GE Animal Control Officer  
 5907GE Animal Control Officer Trainee  
 5911GE Animal Control Public Education Officer  
 5916GE Animal Control Services Representative  
 0214GE Appraiser I  
 0218GE Appraiser II  
 0222GE Appraiser III  
 0210GE Appraiser Trainee  
 1154GE Archivist  
 0599GE Assessment Technician II  
 0600GE Assessment Technician III  
 0598GE Assessment Technician Trainee  
 2530GE Associate Librarian  
 2108GE Assistant Planner  
 2110GE Associate Planner  
 7863GE Auditor-Appraiser I  
 7866GE Auditor-Appraiser II  
 7868GE Auditor-Appraiser III  
 7860GE Auditor-Appraiser Trainee  
 5320GE Building Inspector I  
 5322GE Building Inspector II  
 5323GE Building Inspector III  
 5324GE Building Inspector IV  
 1781GE Cadastral Technician I  
 1787GE Cadastral Technician II  
 1780GE Cadastral Technician Trainee  
 6521GE Child Support Specialist  
 1815GE Civil Engineer  
 1810GE Civil Engineering Assistant  
 6549GE Civilian Economic Crime Investigator  
 8394GE Claims Representative  
 8397GE Claims Technician  
 6201GE Code Enforcement Officer  
 0359GE Collection Officer I  
 0360GE Collection Officer II

0357GE Collection Officer Trainee  
3370GE Communications Coordinator I  
3371GE Communications Coordinator II  
3374GE Communications Installation Technician  
3362GE Communications Installer  
3376GE Communications Technician I  
3381GE Communications Technician II  
4708GE Community Health Assistant I  
4709GE Community Health Assistant II  
4710GE Community Health Assistant III  
2550GE Community Relations Assistant - Library  
3970GE Comprehensive Care X-Ray Technician  
7992GE Computer Forensic Examiner  
1118GE Computer Graphics Specialist  
7913GE Computer Processing Assistant I  
7915GE Computer Processing Assistant II  
5360GE Construction Inspector  
8381GE Contract Services Monitor  
7452GE Correctional Farm Supervisor  
2750GE Correctional Programs Technician  
7451GE Correctional Services Technician  
8908GE Crime Prevention Specialist  
0686GE Customer Service Representative  
6510GE Defense Investigator I  
6514GE Defense Investigator II  
6515GE Defense Investigator III  
6509GE Defense Investigator Trainee  
0692GE Dispatch Services Operator  
7892GE District Attorney Senior Forensic Accountant  
7057GE Education Assistant, Correctional Facility  
2752GE Education Services Coordinator  
0646GE Election Field Representative  
5715GE Emergency Management Program Coordinator  
5708GE Emergency Medical Services Specialist  
1841GE Engineer/Architect Assistant  
1859GE Engineering Geologist  
1724GE Engineering Technician  
1705GE Engineering Technician Trainee  
5102GE Environmental Health Aid  
1763GE Environmental Resources Specialist  
1762GE Environmental Resources Technician  
0676GE Financial Counselor II  
0677GE Financial Counselor III  
3954GE Fingerprint Technician I  
3955GE Fingerprint Technician II  
1606GE Food Service Worker  
3925GE Forensic Assistant I  
3926GE Forensic Assistant II

3932GE Forensic Scientist I  
3934GE Forensic Scientist II  
3935GE Forensic Scientist III  
3952GE Forensic Specialist  
3928GE Forensic Technician  
3929GE Forensic Technician Trainee  
1755GE Geographic Information Systems (GIS) Analyst  
1754GE Geographic Information Systems (GIS) Specialist  
1752GE Geographic Information Systems (GIS) Technician  
1858GE Geologist  
1140GE Graphic Designer  
7425GE Group Counselor I  
7426GE Group Counselor II  
7423GE Group Counselor, Nights  
7424GE Group Counselor Trainee I  
7427GE Group Counselor Trainee II  
4702GE Health Education Assistant  
4704GE Health Education Associate  
4715GE Health Information Specialist  
2135GE Housing Rehabilitation Coordinator II  
7974GE Information Technologist I  
7976GE Information Technologist II  
6524GE Investigative Assistant  
0609GE Investigative Assistant - Sheriff  
6518GE Investigative Technician I  
6520GE Investigative Technician II  
7989GE IT Applications Developer I  
7990GE IT Applications Developer II  
7986GE IT Business Analyst I  
7987GE IT Business Analyst II  
7978GE IT Database Administrator I  
7979GE IT Database Administrator II  
7961GE IT Network Engineer I  
7962GE IT Network Engineer II  
7982GE IT Security Administrator I  
7983GE IT Security Administrator II  
7964GE IT Systems Engineer I  
7966GE IT Systems Engineer II  
7902GE IT Systems Technician I  
7905GE IT Systems Technician II  
1805GE Junior Civil Engineer  
1840GE Junior Engineer/Architect  
1855GE Junior Engineering Geologist  
2301GE Junior Law Clerk  
3804GE Laboratory Aid  
3805GE Laboratory Assistant  
1480GE Laundry Worker  
2300GE Law Clerk

3953GE Lead Forensic Specialist  
7450GE Legal Property Technician  
2400GE Library Assistant I  
2401GE Library Assistant II  
3588GE Maintenance Inspector  
8392GE Materials Regulation Specialist, OC Waste & Recycling  
1665GE Materials Testing Technician Trainee  
1666GE Materials Testing Technician  
4107GE Medical Assistant  
4104GE Nursing Assistant  
2303GE Paralegal  
2302GE Paralegal Trainee  
1660GE Permit Technician Trainee  
1661GE Permit Technician  
4515GE Pharmacy Technician  
1115GE Photo-Reproduction Technician  
0244GE Principal Appraiser  
0602GE Principal Assessment Technician  
9005GE Procurement Buyer  
9000GE Procurement Buyer Trainee  
9110GE Procurement Contract Specialist  
1842GE Professional Engineer/Architect  
1934GE Project Manager I  
1935GE Project Manager II  
1936GE Project Manager III  
4701GE Public Health Investigator  
4700GE Public Health Investigator Trainee  
0680GE Public Safety Dispatcher  
0695GE Radio Dispatcher  
0693GE Radio Dispatcher Trainee  
3960GE Radiologic Technologist  
0320GE Real Property Agent I  
0324GE Real Property Agent II  
0326GE Real Property Agent III  
0318GE Real Property Technician  
0317GE Real Property Technician Aid  
0515GE Recordable Documents Examiner I  
0516GE Recordable Documents Examiner II  
5920GE Registered Veterinary Technician  
8369GE Research Analyst I  
8373GE Research Analyst II  
8371GE Research Analyst III  
8374GE Research Analyst IV  
0828GE Retirement Benefits Specialist I  
0826GE Retirement Benefits Specialist II  
0860GE Retirement Benefits Technician  
6570GE Retirement Investigator  
0862GE Retirement Program Specialist

8808GE Safety Specialist  
1116GE Scheduler, Publishing Services  
6103GE School Crossing Guard  
1474GE Seamstress  
5909GE Senior Animal Control Officer  
1789GE Senior Cadastral Technician  
6523GE Senior Child Support Specialist  
8395GE Senior Claims Representative  
1117GE Senior Computer Graphics Specialist  
5361GE Senior Construction Inspector  
5716GE Senior Emergency Management Program Coordinator  
5103GE Senior Environmental Health Aid  
3956GE Senior Forensic Specialist  
1622GE Senior Institutional Cook  
2402GE Senior Library Assistant  
9006GE Senior Procurement Buyer  
4703GE Senior Public Health Investigator  
0517GE Senior Recordable Documents Examiner  
0863GE Senior Retirement Program Specialist  
8809GE Senior Safety Specialist  
0495GE Senior Sheriff's Records Technician  
7448GE Sheriff Facilities Maintenance Specialist I  
7449GE Sheriff Facilities Maintenance Specialist II  
6120GE Sheriff's Call Taker  
6122GE Sheriff's Community Services Officer  
6116GE Sheriff's Correctional Services Assistant  
6115GE Sheriff's Correctional Services Assistant Trainee  
0494GE Sheriff's Records Technician  
0493GE Sheriff's Records Trainee  
0543GE Sheriff's Technician  
3187GE Shop Planner - Electrical, Mechanical  
3186GE Shop Planner - Structural  
1138GE Sign Technician  
8103GE Staff Aid I  
8105GE Staff Aid II  
8542GE Staff Assistant  
7091GE Staff Development Specialist  
8543GE Staff Specialist  
1716GE Surveyor I  
1717GE Surveyor II  
7906GE Technical Systems Specialist  
1890GE Telecommunications Engineer I  
1891GE Telecommunications Engineer II  
1892GE Telecommunications Engineer III  
0683GE Telephone Console Attendant  
0674GE Training Assistant/Sheriff  
1015GE Utility Worker-Driver  
5151GE Veterinary Assistant

1148GE Video Producer  
7056GE Vocational Instructor, Correctional Facility  
0929GE Warehouse Worker I  
0930GE Warehouse Worker II  
0931GE Warehouse Worker III  
0932GE Warehouse Worker IV  
8390GE Waste Inspector  
8391GE Waste Inspector Trainee  
7446GE Weapons Instructor, Sheriff

# MEMORANDUM OF UNDERSTANDING

## COUNTY GENERAL UNIT

20198 – 2023~~19~~

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING

201~~98~~ - 20~~23~~~~19~~

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

COUNTY GENERAL UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on ~~July~~  
~~October 22~~~~31~~, 201~~98~~ sets forth the terms of agreement reached between the  
County of Orange and the Orange County Employees Association as the  
Exclusively Recognized Employee Organization for the County General Unit for  
the period beginning ~~June 21~~~~3~~, 201~~98~~ through ~~June 29~~~~0~~, ~~2019~~~~2023~~. Unless  
otherwise indicated herein, all provisions shall become effective ~~June 23~~~~October~~  
~~22~~, 201~~98~~.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 sickhealthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the term "sick" or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1.        Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. An employee in the class of Radio Dispatcher, Cook Trainee, Institutional Cook, Senior Institutional Cook, or Correctional Services Technician may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40) hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the department.

4. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.

45. An employee in the classification of Animal Control Officer or Senior Animal Control Officer who is assigned as the Graveyard Shift Officer or assigned to the Potentially Dangerous or Vicious Dog Compliance Check Program may volunteer to work a modified work schedule consisting of three (3) twelve (12) hour workdays every other week and four (4) eleven (11) hour workdays on alternate weeks. Management reserves the right to implement any other established schedule should the aforementioned modified schedule not meet business needs.

- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
- E. 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.
- F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

### C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

Section 4. Exclusions from Workweek and Overtime Provisions

Employees in the classes of Real Property Agent I, Real Property Agent II, and Real Property Agent III, shall not be subject to the provisions of Sections 1., 2. or 3. above.

Section 5. 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. Except as provided in 3.a, 3.b, and 3.c below, 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. Except as provided in 3.a, 3.b, and 3.c below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour, except that:
  - a. Employees in the classification of Medical Assistant shall receive night shift differential at a rate of one dollar and twenty-five cents (\$1.25) per hour.
  - b. Employees in the classification of Medical Assistant who work an assigned night shift where the majority of hours are between 5:00 p.m. to 11:00 p.m. shall be paid night shift differential at a rate of one dollar and seventy-five cents (\$1.75). Hours worked as an extension of an assigned shift eligible for Night Shift Differential under 2. above shall be paid at the same rate as the assigned shift. Hours worked as an extension of an assigned shift not

eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

- c. Employees in the classification of Medical Assistant who work an assigned night shift where the majority of hours are between 11:00 p.m. to 7:00 a.m. shall be paid night shift differential at a rate of two dollars and seventy-five cents (\$2.75). Hours worked as an extension of an assigned shift eligible for Night Shift Differential under 2. above shall be paid at the same rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

#### 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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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. Except as provided in 5.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.

4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.

#### 2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Collection Officer

~~Communicable Disease Investigator~~

~~Communicable Disease Investigator Trainee~~

Correctional Programs Technician

Defense Investigator I

Defense Investigator II

Defense Investigator III

Defense Investigator Trainee

Family Support Officer

Financial Counselor I  
 Financial Counselor II  
 Financial Counselor III  
 Health Education Associate  
 Investigative Assistant, District Attorney  
 Investigative Assistant, Sheriff  
 Paralegal  
 Paralegal Trainee  
 Public Defender Interviewer I  
 Public Defender Interviewer II  
Public Health Investigator  
Public Health Investigator Trainee  
 Senior Family Support Officer

3. Counselor Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c., above, are regularly assigned by agency/department management to perform their duties in a language other than English shall receive an additional sixty (60) cents per hour for all hours actually paid:

Group Counselor I  
 Group Counselor II  
 Group Counselor Night

4. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
5. Bilingual pay shall not apply to workers' compensation supplement pay.
6. 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.
7. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

E. Communications Coordinator Salary Supplement

A Communications Coordinator II shall receive a salary supplement for each hour actually worked on the paramedic radio communications console when assigned four (4) consecutive hours or more to that console. The rate of the salary supplement shall be equivalent to an additional five and one-half (5 1/2) percent.

F. Height Premium Pay

Communications Technicians and Installers who, as a condition of their assigned tasks, must work upon towers or poles fifty-nine (59) feet or higher shall receive Height Premium Pay. Height Premium Pay will be paid only for those hours actually spent working at heights above forty (40) feet provided that there shall be a minimum two (2) hour payment for any day in which qualifying work is performed. The rate for Height Premium Pay shall be fifty (50) cents per hour.

G. Jail Salary Supplement

1. An employee classified in one of the classes listed below who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services, Headquarters Records, Warrant Bureau), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours:

Communications Technician I  
 Communications Technician II  
 Dispatch Services Operator  
 Pharmacy Technician  
 Pharmacy Technician Trainee  
 Staff Assistant  
 Staff Specialist  
 Utility Worker/Driver  
 Warehouse Worker I  
 Warehouse Worker II  
 Warehouse Worker III  
 Warehouse Worker IV

2. An employee in the classification of Shop Planner- Electrical/Mechanical, Shop Planner-Structural, or Medical Assistant who is permanently assigned to the Central Jail/Intake/Release Center, Theo Lacy Branch Jail or James Musick Facility shall receive, in addition to biweekly salary, an additional seventy-five (75) cents per hour for all hours paid.

3. This salary supplement shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

#### H. Confined Spaces Pay

1. Maintenance Inspector/Specialists who are regularly assigned to the Public Works Operations Confined Space Inspection Team shall receive one dollar and twenty-five (\$1.25) cents per hour for those hours actually spent working in confined spaces, as defined in subsection 2., 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.
2. 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 include compartments, ducts, sewers, pipelines, vaults and pits.

#### I. Training Assignment Pay

1. Employees in the classification of Communications Coordinator I and II, Correctional Services Assistant, Correctional Services Technician and Radio Dispatcher shall be paid one (1) dollar per hour for all hours assigned to perform training functions.

2. Effective the first day of the first full pay period following Board of Supervisors' adoption of this MOU, employees in the classification of Sheriff's Community Services Officer shall be paid one (1) dollar for all hours assigned to train a new Community Services Officer.

#### J. Toxic Hazard Assignment Pay

Employees on pay status in the classification series of Forensic Scientist and the classification series of Forensic Specialist who are assigned to the Clandestine Lab Section of Forensic Services shall receive one hundred seventy-five (175) dollars per month (approximately \$80.77 per pay period).

#### K. Advanced Certification Pay

The following employees shall receive, in addition to their bi-weekly salary, the equivalent of one hundred nineteen (119) dollars a month or approximately fifty-five (55) dollars bi-weekly for receiving an Advanced Appraisal Certificate issued by the State Board of Equalization.

Appraiser I  
Appraiser II  
Appraiser III  
Auditor Appraiser I  
Auditor Appraiser II  
Auditor Appraiser III

#### L. Commercial Driver's License Pay

Employees in the classifications of Agricultural Standards Technician and Agricultural Standards Inspector 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 actually 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the agency/department head and shall be based on merit.
- 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes 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 10. 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.

## Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated. The County therefore agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

## ARTICLE III      GENERAL PERSONNEL PROVISIONS

### Section 1.      Probation

#### A.      New Probation

##### 1.      Full-Time Employee

- a.      A new or reemployed employee in a regular or limited-term position in a law enforcement professional or technical class shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed employee 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 period for twenty-six weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

##### 2.      Part-Time Employee

- a.      A new or reemployed part-time employee in a regular or limited-term position in a law enforcement professional or technical class shall be placed on a new probation period for two thousand eighty (2080) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.
- b.      A new or reemployed part-time employee 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 period 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 section B.2., below.
  - a.      A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

- b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.
2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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/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, except as provided in E.1., 2. and 3. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

### 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and **sickhealthcare** 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 annual leave, vacation and **sickhealthcare** leave accrual, 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 section 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.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

#### Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "Meets" or "Exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

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

~~Section 12. Classification and Compensation Studies~~

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated. The County therefore agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.~~

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Sick-Healthcare Leave

~~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.~~

#### A. Accumulation-Accrual of Sick-Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of sickhealthcare 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 sickhealthcare 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. SickHealthcare leave earned shall be added to the employee's sickhealthcare 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. Except as required by law, extra help employees shall not earn sickhealthcare leave.

#### B. Permitted Uses of SickHealthcare Leave

~~Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.~~

SickHealthcare leave may be applied to:

1. ~~An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.~~
2. ~~Medical and dental office appointments when absence during working hours for this purpose is authorized by the agency/department. For~~

~~purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).~~

~~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.~~

~~42. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. ~~Use of this leave is limited to the time period specified in Labor Code section 233.~~

~~5.~~

~~3. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).~~

~~Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).~~

~~4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.~~

~~65. Illness while on paid vacation will be charged to sickhealthcare 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 **sickhealthcare** 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 business not to exceed thirty (30) working hours during the fiscal year.~~

~~76.~~ An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

~~37. 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.~~

~~8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.~~

~~9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.;~~

#### C. Prohibited Uses of **SickHealthcare** Leave

1. **SickHealthcare** leave shall not be applied to:

~~1. a.~~ Absence caused by illness or injury to a member of the employee's family except as provided in B. ~~4., B.5., B.6., or B.8.~~ above.

~~2. b.~~ Absences which occur on a County holiday.

~~2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.~~

## D. General Provisions

1. In any use of **sickhealthcare** leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

3. **Employees hired on or after July 15, 1977 are not eligible for any payoff of sickhealthcare leave. Employees hired before July 15, 1977 are eligible for sickhealthcare leave payoff under the following conditions:**

- a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused **sickhealthcare** leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused <b>SickHealthcare</b> 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 **sickhealthcare** 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 **sickhealthcare** leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of **sickhealthcare** leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's **sickhealthcare** 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 **sickhealthcare** 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. Such request must be made at least thirty (30) 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.~~

~~45. Upon request of the County, negotiations shall be reopened to consider alternative sick leave incentive/control programs.~~

46. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining **sickhealthcare** leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid **sickhealthcare** days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid **sickhealthcare** days and to accrue additional paid **sickhealthcare** days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

~~Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.~~

~~A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.~~

~~B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) regularly scheduled shifts in any one (1) instance for each death, to arrange for~~

~~or attend a funeral of a member of their immediate family and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, step-child, grandparent, grandchild or legal guardian.~~

~~C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.~~

~~A-D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.~~

### 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.

3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, **sickhealthcare** leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, **sickhealthcare** leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

### 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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued **sickhealthcare** leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

## Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of **sickhealthcare** leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.

- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. **SickHealthcare** leave or annual leave must 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 11. 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

sickhealthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.

4. OCEA 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 Presidential 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/departamental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, **annual leave** and **sickhealthcare** 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, **healthcare leave (8 hours maximum per fiscal year)**, 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.

## Section 14. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.

3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, **sickhealthcare** leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of **sickhealthcare** 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic partner, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to agency/department operations.

#### Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

#### Section 15. Attendance at Professional Conferences or to Conduct Professional Study

- A. Employees in the classifications of Medical Assistant, Health Education Assistant or Health Education Associate may request five (5) working days leave with pay each fiscal year for attendance at professional conferences, or

to conduct professional study (which may include home or web-based study), subject to the following conditions:

1. A request is made in advance on the Request to Attend a Conference Form or Request to Conduct Professional Study Form.
2. The conference or professional study is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
3. The employee pays all costs connected with the conference attendance or professional study, including registration, meals, transportation and/or lodging, if any.

**4. The conference or professional study is located in the United States.**

**45.** The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.) and in the case of professional study, appropriate certification of CEU credits.

**56.** The employee's workload is current and his or her performance "meets" or "exceeds" performance expectations.

B. Attendance at conferences or requests to conduct professional study by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.

C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.

D. Requests may be made for more than five (5) days Leave for attendance at a professional conference or to conduct professional study in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.

E. Attendance at conferences outside of the general area United States will require approval under the County Travel Request procedure and is not covered by this provision of a department head.

**Section 16. LEAVE LANGUAGE WORKING GROUP**

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V      VACATIONSection 1.      Accumulation of Vacation Accrual

~~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.~~

- A. ~~During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period. 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 (6,240) 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 accrual 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 (20,800 regularly scheduled hours), 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 subsection 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.~~

- ~~ED.~~ The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of ~~full-time~~ continuous ~~County~~ 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 an employee may accrue at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time~~ continuous ~~County~~ service ~~(20,800 regularly scheduled hours)~~ shall be three hundred twenty (320) hours ~~and a prorated amount equal to eight (8) weeks of vacation for part-time employees.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

- ~~FE.~~ Employees in the classes of Real Property Agent I, Real Property Agent II, and Real Property Agent III, shall earn an additional .0193 hours of vacation for each hour of pay during the regularly scheduled workweek, but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such additional credit shall be applied to vacation ~~accumulation~~ ~~accrual~~ account only upon completion of each pay period, ~~with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.~~ ~~The maximum allowable vacation credit at any one (1) time for employees in the above classes with less than ten (10) years of continuous County service shall be three hundred twenty (320) hours. The maximum allowable vacation credit at any one (1) time for employees in the above classes with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be four hundred (400) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.~~

- ~~1.~~ During each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

- ~~2.~~ The maximum allowable vacation credit at any one (1) time for a full-time employee with less than ten (10) years of continuous service shall be three hundred twenty (320) hours or prorated amount equal to eight (8) 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 four hundred (400) hours and a prorated amount equal to ten (10) weeks of vacation for part-time employees. An

employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

**A.** Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.

**AB.** Not more than eighty (80) hours of paid time may be credited toward ~~accumulation accrual~~ of vacation credit in any pay period.

**C.** As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

**BD.** Approved unpaid leaves, including ~~A Non-Medical Discretionary n Official~~ Leave of Absence, ~~Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave~~ shall cause the aforementioned ten (10) years (Article V, Section 1.C. and ~~F.2E.~~) of full-time County service to be postponed a number of calendar days equal to the ~~Official Leave approved unpaid Leave~~.

**CE.** 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. and ~~FE-2.~~) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.

**DE.** Additional vacation earned during the period of vacation may be taken consecutively.

**EG.** In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

**FH.** 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.

**GI.** No scheduled vacation will be cancelled ~~by the agency/department~~, except in cases of emergency.

- HJ.** Illness while on paid vacation will be charged to **sickhealthcare** leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- KI.** 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.
- JL.** 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.

**LM.** When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### **Section 3. Vacation Cash Out**

#### **A. Vacation Cash Out Where Employee Has No Annual Leave Balances**

- K1.** **After annual leave has been exhausted, d**uring each fiscal year, an employee may request to be paid for accrued vacation- in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.
2. **After annual leave has been exhausted, d**uring each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Animal Control Officer  
 Animal Control Officer Trainee  
 Correctional Services Technician

~~**Deputy Sheriff – Emergency Services As Needed**~~

~~\_\_\_\_\_~~ Dispatch Services Operator  
~~\_\_\_\_\_~~ Radio Dispatcher  
~~\_\_\_\_\_~~ Radio Dispatcher Trainee  
Senior Animal Control Officer  
Sheriffs Community Services Officer

~~L. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.~~

~~B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave~~

- ~~1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. and 1.E, above) some time during the fiscal year unless the employee is able to cash out vacation time.~~
- ~~2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.~~

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

~~Employees hired prior to July 15, 1977 shall be covered by the Sick Leave and Vacation provisions of this Memorandum of Understanding. Annual leave will consist of the combined sick leave, vacation balances, and accruals for employees covered by the Annual Leave Plan.~~

### ~~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 full-time 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.      Employees in the classes of Real Property Agent I, Real Property Agent II, and Real Property Agent III shall earn an additional one (1) hour and thirty-three (33) minutes (approximately forty [40] hours per year) of annual leave during each eighty (80) hour pay period, or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.~~
- ~~E.      Annual Leave earned shall be added to the employee's annual leave balance 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.~~

~~F. The amount of annual leave an employee may accrue shall be unlimited.~~

~~G. Extra help employees shall not earn annual leave.~~

### Section 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

~~A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.~~

~~B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.~~

~~C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.~~

### Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.

5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid **sickhealthcare** leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered **sickhealthcare** leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.

- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.

- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

#### 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 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 (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.~~

**EA.** In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~

**GB.** 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.

H. 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 the 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. Payoff of Unused Annual Leave Annual Leave Payoff Provisions

A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:

1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.

2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.

1. 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. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.

2. During each fiscal year, employees in the following classes may request to be paid for accrued annual leave in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.

Animal Control Officer

Animal Control Officer Trainee

Correctional Services Technician

~~Deputy Sheriff – Emergency Services As Needed~~  
~~Dispatch Services Operator~~  
~~Radio Dispatcher~~  
~~Radio Dispatcher Trainee~~  
~~Senior Animal Control Officer~~  
~~Sheriffs Community Services Officer~~

- 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% (320 hours for Real Property Agent I, II and III)
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 320 hours are paid at 100% (400 hours for Real Property Agent I, II and III); the remaining balance, after the 320 hours (400 hours for Real Property Agent I, II and III) 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours (320 hours for Real Property Agent I, II and III) for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours (400 hours for Real Property Agent I, II and III) for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Sections 1.D. and E. Remaining hours, up to the accrual limits specified in Article V, Sections 1.D. and E., will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to

1600 hours.

- 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 who is 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 above.

E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

## ARTICLE VII HOLIDAYS

### Section 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2018 — Independence Day, July 4  
 Labor Day, September 3  
 Columbus Day, October 8  
 Veteran's Day, November 12  
 Thanksgiving Day, November 22  
 Day After Thanksgiving, November 23  
 Christmas Day, December 25

2019: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 21  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 18  
 Memorial Day, May 27  
 Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020 New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021 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 24 ( <i>Observed</i> )
	New Year's Day ( <i>Observed</i> )
2022	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 26 ( <i>Observed</i> )
2023	New Year's Day, January 2 ( <i>Observed</i> )
	Martin Luther King, Jr.'s Birthday, January 16
	Lincoln's Birthday, February 12
	Washington's Birthday, February 20
	Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.

- F. 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.** There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

**FG.** 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.

**GH.** 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. —Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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

Employees in the below listed classes who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred (400) dollars per fiscal year. Eligible employees shall include employees in the following classes:

- Communications Installer
- Communications Installer Technician
- Communications Technician I
- Communications Technician II
- Investigative Technician I, DA
- Investigative Technician II, DA
- Sound Systems Technician

## Section 4. Boots

A. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty dollars (\$150) per fiscal year.

- Animal Control Assistant
- Animal Control Public Education Officer
- Animal Control Officer Trainee
- Animal Control Officer
- Building Inspector I
- Building Inspector II
- Building Inspector III
- Building Inspector IV
- Planner I assigned to Planning and Development Services  
Department – Code Enforcement
- Safety and Training Officer assigned to OC Public Works
- Senior Animal Control Officer
- Senior Waste Inspector, OCWR
- Waste Inspector, Trainee
- Waste Inspector

B. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to one hundred fifty dollars (\$150) per fiscal year.

Construction Inspector  
Senior Construction Inspector

- C. Employees in the below listed classes that are regularly assigned field assignments and who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred fifty dollars (\$150) per fiscal year.

Engineering Technician Trainee  
Engineering Technician I  
~~Engineering Technician II~~  
~~Engineering Technician III~~  
~~Engineering Technician Specialist~~  
Senior Engineering Technician  
Engineering Geologist  
Maintenance Inspector Specialist  
~~Rodman and Chainman~~  
~~Survey Instrumentman~~  
~~Surveyor~~  
Surveyor I  
Surveyor II

- D. Employees of the Orange County Public Works Dept. (OCPW) in the below listed classes that are regularly assigned field or wilderness assignments and who are required to furnish their own safety work boots shall be eligible for reimbursement up to a maximum of \$150 per fiscal year:

Agricultural Standards Technician  
Agricultural Standards Inspector  
Civil Engineer (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)  
Civil Engineer Assistant (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)  
Environmental Resource Specialist I-III  
Environmental Resource Technician

E. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.

F. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

**Section 5. Educational and Professional Reimbursement**

**A. Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).**

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 XVII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and OCEA?
  - 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 OCEA?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no violation of Article XVII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds a violation of Article XVII, 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 XVII, 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. Except as otherwise required by law, 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 XVII, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
  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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 PROCEDURESection 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 OCEA 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~~healthcare leave credited to the employee's account or unpaid annual leave 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 annual leave, ~~sick~~healthcare leave and vacation, 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 Chief Human Resources Officer.
  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 **sickhealthcare** leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any **sickhealthcare** leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue **sickhealthcare** leave, annual 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 **sickhealthcare** leave, compensatory time annual leave and/or vacation expended since the fourth 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 **sickhealthcare** leave, compensatory time, annual leave 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 sickhealthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 sickhealthcare leave, vacation and annual leave 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, sickhealthcare 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

- A. The County will provide uniforms for regular employees in the following assignments:
1. Public Works Department  
Information Technologist II assigned to Facilities Operations  
Warehouse Worker I, II, III and IV  
Weed Abatement Inspector
  2. Probation Department  
Food Service Worker  
Institutional Cook  
Senior Institutional Cook
  3. Sheriff - Coroner Department  
Institutional Cook  
Senior Institutional Cook  
Correctional Services Technician  
Cook Trainee  
Radio Dispatcher
- B. 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.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations as to the specific location and dates of the meeting prior to such meeting.

**ARTICLE XVII**    **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 XVIII NONDISCRIMINATION

Section 1.

The County and the Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE ~~XVIII~~ POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

ARTICLE XIX INSURANCE

Section 1. Health Plans and Premium Contributions

A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
    - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
    - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee's eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
    - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
    - a. Employee Only Coverage – one hundred (100) percent of the premium;
    - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
  4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.
- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

## Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

Section 5. Retiree Medical Plan

A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

B. Retiree Medical Plan Lump Sum; Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension

under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

**E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust**

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

**9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.**

Section 6. Reopener

Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>i</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

<sup>i</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XXI DEFINED CONTRIBUTION

Section 1 An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2 The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3. The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

## ARTICLE XXII RETIREMENT

### Section 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA").
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.
    - c. In the event an eligible employee elects the "1.62% at 65" benefit formula, the employee shall be eligible to participate in

the County 1.62 Retirement 457(b) Defined Contribution Plan (the "DC Plan") described in Section 3 below.

- d. Effective with the beginning of pay period following the date an employee elects the "1.62% at 65" benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of "2.7% at 55" or "1.62 at 65" Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
    - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
    - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the "2.7% at 55" benefit formula or the "1.62% at 65" benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
    - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the "1.62% at 65" benefit formula.
    - d. An employee who elected, or was deemed to have elected, the "1.62% at 65" benefit formula is eligible to participate in the "DC Plan" described in Section 3 below.
    - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee's hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the "1.62% at 65" benefit formula are not retroactive to the employee's date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the "1.62% at 65" benefit formula.
    - f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.

- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
- The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below.
  - “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the “Reverse Pickup” and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative ratio based methodology will be used to determine the additional employee contribution toward the “2.7% at 55” retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.

c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.

d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date, t~~The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the DC Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the DC Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

Section 4. 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 XXIII~~V~~ RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the General Unit for classes in effect on June ~~213, 2019~~<sup>8</sup>. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXVI PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year. All other performance management components of PIP remain in effect.

## ARTICLE XXVI† LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
- 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
- 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVIX SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.

2. Effective January-July 31, 2020, the salary schedule will be increased by 2.50%.

3. Effective July 1, 2021, the salary schedule will be increased by 2.50%.

4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

**Article XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

**Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.**

## APPENDIX A

Classes included in the County General Unit as of June 21<sup>3</sup>, 2019<sup>8</sup>:

7806GE Accountant/Auditor I  
 7807GE Accountant/Auditor II  
 5015GE Agricultural/Standards Inspector  
 5010GE Agricultural/Standards Technician  
 5220GE Airport Access/Noise Specialist I  
 5224GE Airport Access/Noise Specialist II  
 5500GE Airport Operations Officer  
 5357GE Airport Technical Associate  
 5917GE Animal Control Assistant  
 5905GE Animal Control Officer  
 5907GE Animal Control Officer Trainee  
 5911GE Animal Control Public Education Officer  
 5916GE Animal Control Services Representative  
 0214GE Appraiser I  
 0218GE Appraiser II  
 0222GE Appraiser III  
 0210GE Appraiser Trainee  
 1154GE Archivist  
 0599GE Assessment Technician II  
 0600GE Assessment Technician III  
 0598GE Assessment Technician Trainee  
 2530GE Associate Librarian  
2108GE Assistant Planner  
2110GE Associate Planner  
 7863GE Auditor-Appraiser I  
 7866GE Auditor-Appraiser II  
 7868GE Auditor-Appraiser III  
 7860GE Auditor-Appraiser Trainee  
 5320GE Building Inspector I  
 5322GE Building Inspector II  
 5323GE Building Inspector III  
 5324GE Building Inspector IV  
1781GE Cadastral Technician I  
1787GE Cadastral Technician II  
 1780GE Cadastral Technician Trainee  
 6521GE Child Support Specialist  
 1815GE Civil Engineer  
 1810GE Civil Engineering Assistant  
 6549GE Civilian Economic Crime Investigator  
 8394GE Claims Representative  
 8397GE Claims Technician  
 6201GE Code Enforcement Officer  
 0359GE Collection Officer I  
 0360GE Collection Officer II

0357GE Collection Officer Trainee  
3370GE Communications Coordinator I  
3371GE Communications Coordinator II  
3374GE Communications Installation Technician  
3362GE Communications Installer  
3376GE Communications Technician I  
3381GE Communications Technician II  
4708GE Community Health Assistant I  
4709GE Community Health Assistant II  
4710GE Community Health Assistant III  
2550GE Community Relations Assistant - Library  
3970GE Comprehensive Care X-Ray Technician  
7992GE Computer Forensic Examiner  
1118GE Computer Graphics Specialist  
7913GE Computer Processing Assistant I  
7915GE Computer Processing Assistant II  
5360GE Construction Inspector  
8381GE Contract Services Monitor  
7452GE Correctional Farm Supervisor  
2750GE Correctional Programs Technician  
7451GE Correctional Services Technician  
8908GE Crime Prevention Specialist  
0686GE Customer Service Representative  
6510GE Defense Investigator I  
6514GE Defense Investigator II  
6515GE Defense Investigator III  
6509GE Defense Investigator Trainee  
0692GE Dispatch Services Operator  
7892GE District Attorney Senior Forensic Accountant  
7057GE Education Assistant, Correctional Facility  
2752GE Education Services Coordinator  
0646GE Election Field Representative  
5715GE Emergency Management Program Coordinator  
5708GE Emergency Medical Services Specialist  
1841GE Engineer/Architect Assistant  
1859GE Engineering Geologist  
1724GE Engineering Technician  
1705GE Engineering Technician Trainee  
5102GE Environmental Health Aid  
1763GE Environmental Resources Specialist  
1762GE Environmental Resources Technician  
0676GE Financial Counselor II  
0677GE Financial Counselor III  
3954GE Fingerprint Technician I  
3955GE Fingerprint Technician II  
1606GE Food Service Worker  
3925GE Forensic Assistant I  
3926GE Forensic Assistant II

3932GE Forensic Scientist I  
 3934GE Forensic Scientist II  
 3935GE Forensic Scientist III  
 3952GE Forensic Specialist  
 3928GE Forensic Technician  
 3929GE Forensic Technician Trainee  
 1755GE Geographic Information Systems (GIS) Analyst  
 1754GE Geographic Information Systems (GIS) Specialist  
 1752GE Geographic Information Systems (GIS) Technician  
 1858GE Geologist  
 1140GE Graphic Designer  
 7425GE Group Counselor I  
 7426GE Group Counselor II  
 7423GE Group Counselor, Nights  
 7424GE Group Counselor Trainee I  
 7427GE Group Counselor Trainee II  
 4702GE Health Education Assistant  
 4704GE Health Education Associate  
 4715GE Health Information Specialist  
 2135GE Housing Rehabilitation Coordinator II  
 7974GE Information Technologist I  
 7976GE Information Technologist II  
 6524GE Investigative Assistant  
0609GE Investigative Assistant - Sheriff  
6518GE Investigative Technician I  
6520GE Investigative Technician II  
 7989GE IT Applications Developer I  
 7990GE IT Applications Developer II  
 7986GE IT Business Analyst I  
 7987GE IT Business Analyst II  
 7978GE IT Database Administrator I  
 7979GE IT Database Administrator II  
 7961GE IT Network Engineer I  
 7962GE IT Network Engineer II  
 7982GE IT Security Administrator I  
 7983GE IT Security Administrator II  
 7964GE IT Systems Engineer I  
 7966GE IT Systems Engineer II  
 7902GE IT Systems Technician I  
 7905GE IT Systems Technician II  
 1805GE Junior Civil Engineer  
1840GE Junior Engineer/Architect  
 1855GE Junior Engineering Geologist  
 2301GE Junior Law Clerk  
 3804GE Laboratory Aid  
 3805GE Laboratory Assistant  
 1480GE Laundry Worker  
 2300GE Law Clerk

3953GE Lead Forensic Specialist  
 7450GE Legal Property Technician  
2400GE Library Assistant I  
2401GE Library Assistant II  
 3588GE Maintenance Inspector  
 8392GE Materials Regulation Specialist, OC Waste & Recycling  
1665GE Materials Testing Technician Trainee  
1666GE Materials Testing Technician  
 4107GE Medical Assistant  
 4104GE Nursing Assistant  
 2303GE Paralegal  
 2302GE Paralegal Trainee  
1660GE Permit Technician Trainee  
1661GE Permit Technician  
 4515GE Pharmacy Technician  
 1115GE Photo-Reproduction Technician  
 0244GE Principal Appraiser  
 0602GE Principal Assessment Technician  
 9005GE Procurement Buyer  
9000GE Procurement Buyer Trainee  
 9110GE Procurement Contract Specialist  
1842GE Professional Engineer/Architect  
 1934GE Project Manager I  
 1935GE Project Manager II  
 1936GE Project Manager III  
 4701GE Public Health Investigator  
4700GE Public Health Investigator Trainee  
 0680GE Public Safety Dispatcher  
 0695GE Radio Dispatcher  
 0693GE Radio Dispatcher Trainee  
3960GE Radiologic Technologist  
 0320GE Real Property Agent I  
 0324GE Real Property Agent II  
 0326GE Real Property Agent III  
 0318GE Real Property Technician  
 0317GE Real Property Technician Aid  
 0515GE Recordable Documents Examiner I  
 0516GE Recordable Documents Examiner II  
 5920GE Registered Veterinary Technician  
 8369GE Research Analyst I  
 8373GE Research Analyst II  
 8371GE Research Analyst III  
 8374GE Research Analyst IV  
 0828GE Retirement Benefits Specialist I  
 0826GE Retirement Benefits Specialist II  
0860GE Retirement Benefits Technician  
 6570GE Retirement Investigator  
 0862GE Retirement Program Specialist

8808GE Safety Specialist  
 1116GE Scheduler, Publishing Services  
 6103GE School Crossing Guard  
 1474GE Seamstress  
 5909GE Senior Animal Control Officer  
1789GE Senior Cadastral Technician  
 6523GE Senior Child Support Specialist  
 8395GE Senior Claims Representative  
 1117GE Senior Computer Graphics Specialist  
 5361GE Senior Construction Inspector  
 5716GE Senior Emergency Management Program Coordinator  
 5103GE Senior Environmental Health Aid  
 3956GE Senior Forensic Specialist  
 1622GE Senior Institutional Cook  
2402GE Senior Library Assistant  
 9006GE Senior Procurement Buyer  
 4703GE Senior Public Health Investigator  
 0517GE Senior Recordable Documents Examiner  
 0863GE Senior Retirement Program Specialist  
8809GE Senior Safety Specialist  
0495GE Senior Sheriff's Records Technician  
7448GE Sheriff Facilities Maintenance Specialist I  
7449GE Sheriff Facilities Maintenance Specialist II  
 6120GE Sheriff's Call Taker  
 6122GE Sheriff's Community Services Officer  
 6116GE Sheriff's Correctional Services Assistant  
6115GE Sheriff's Correctional Services Assistant Trainee  
0494GE Sheriff's Records Technician  
 0493GE Sheriff's Records Trainee  
 0543GE Sheriff's Technician  
 3187GE Shop Planner - Electrical, Mechanical  
 3186GE Shop Planner - Structural  
 1138GE Sign Technician  
 8103GE Staff Aid I  
 8105GE Staff Aid II  
 8542GE Staff Assistant  
 7091GE Staff Development Specialist  
 8543GE Staff Specialist  
 1716GE Surveyor I  
 1717GE Surveyor II  
 7906GE Technical Systems Specialist  
 1890GE Telecommunications Engineer I  
 1891GE Telecommunications Engineer II  
 1892GE Telecommunications Engineer III  
 0683GE Telephone Console Attendant  
 0674GE Training Assistant/Sheriff  
 1015GE Utility Worker-Driver  
5151GE Veterinary Assistant

1148GE Video Producer  
7056GE Vocational Instructor, Correctional Facility  
0929GE Warehouse Worker I  
0930GE Warehouse Worker II  
0931GE Warehouse Worker III  
0932GE Warehouse Worker IV  
8390GE Waste Inspector  
8391GE Waste Inspector Trainee  
7446GE Weapons Instructor, Sheriff

# MEMORANDUM OF UNDERSTANDING

COUNTY HEALTHCARE PROFESSIONAL  
UNIT

**2019 – 2023**

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION  
FOR THE  
COUNTY HEALTHCARE PROFESSIONAL UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019 sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the County Healthcare Professional Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 22, 2019.

## **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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the terms, "sick" and/or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1.        Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or Agency/Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.

- E. 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.
- F. 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 OCEA, 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;
    - c. twelve (12) hour workdays;
    - d. flex time.
  2. The County shall initiate such studies within thirty (30) days and provide a written response within ninety (90) days.
  3. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 work of the apparent need 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the

employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3. above.

C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

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. Except as provided in 5. and 6., below, 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. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

3. Except as provided in 4., 5. and 6. below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour.
4. The rate of night shift differential for employees in the classes listed below shall be one (1) dollar and twenty-five (25) cents per hour:

Behavioral Health Nurse  
 Comprehensive Care Physician Assistant I  
 Comprehensive Care Physician Assistant II  
 Licensed Vocational Nurse

Nurse Practitioner Candidate  
 Nurse Practitioner I  
 Nurse Practitioner II  
 Physician Assistant I  
 Physician Assistant II  
 Public Health Nurse I  
 Public Health Nurse II  
 Public Health Nurse III  
 Senior Public Health Nurse  
 Senior Staff Nurse  
 Staff Nurse

5. An employee in the below listed classes who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one dollar and seventy-five (\$1.75) cents per hour for each hour actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II  
 Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II  
 Comprehensive Care Physicians Assistant I  
 Comprehensive Care Physicians Assistant II  
 Marriage Family Therapist I  
 Marriage Family Therapist II

6. An employee in the below listed classes who works an assigned late night shift where the majority of hours are between 11:00p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II  
 Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II  
 Comprehensive Care Physicians Assistant I  
 Comprehensive Care Physicians Assistant II  
 Marriage Family Therapist I  
 Marriage Family Therapist II

#### 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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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. Except as provided in 6.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine (69) dollars per month) for all hours actually paid.
  - 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 Chief Human Resources Officer.

2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour

(approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Behavioral Health Nurse  
Clinical Psychologist I  
Clinical Psychologist II

Comprehensive Care Licensed Vocational Nurse I  
Comprehensive Care Licensed Vocational Nurse II  
Comprehensive Care Nurse I  
Comprehensive Care Nurse II  
Comprehensive Care Nurse III  
Comprehensive Care Nurse Practitioner  
Comprehensive Care Nurse Practitioner I  
Comprehensive Care Nurse Practitioner II  
Comprehensive Care Physician Assistant I  
Comprehensive Care Physician Assistant II  
Dentist  
Health Educator  
Licensed Vocational Nurse  
Nurse Mid-Wife I  
Nurse Mid-Wife II  
Nurse Practitioner I  
Nurse Practitioner II  
Nurse Practitioner Candidate  
Occupational Therapist I  
Occupational Therapist II  
Occupational Therapist III  
Public Health Nutritionist I  
Public Health Nutritionist I  
Physical Therapist I  
Physical Therapist II  
Physical Therapist III  
Physician Assistant I  
Physician Assistant II  
Physician-Specialist  
Psychiatrist  
Psychologist I  
Psychologist II  
Public Health Medical Officer I  
Public Health Nurse I  
Public Health Nurse II  
Public Health Nurse III  
Senior Public Health Nurse  
Senior Staff Nurse  
Staff Nurse

3. Specialized Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency management to perform specialized bilingual duties that are essential to the performance of their professional duties and responsibilities shall receive an additional ninety (90¢) cents per hour (approximately one hundred and fifty-six (\$156) dollars per month) for all hours actually paid:

Clinical Social Worker I  
 Clinical Social Worker II  
 Marriage Family Therapist I  
 Marriage Family Therapist II

4. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
5. Bilingual pay shall not apply to workers' compensation supplement pay.
6. 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.
7. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

#### E. Jail Salary Supplement

1. An employee classified in one of the classes listed below who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventy-five (75) cents per hour for all paid hours:

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II

Comprehensive Care Physician Assistant I  
 Comprehensive Care Physician Assistant II

Dental Assistant I  
 Dental Assistant II  
 Dental Hygienist  
 Dentist  
 Marriage Family Therapist I  
 Marriage Family Therapist II  
 Medical Assistant  
 Pharmacist  
 Physician I – Correctional  
 Physician II – Correctional  
 Physician III – Correctional  
 Physician Assistant I  
 Physician Assistant II  
 Physician Specialist  
 Psychiatrist  
 Psychologist I  
 Public Health Medical Officer I

2. Comprehensive Care Nurse Jail Incentive

An employee in any of the below listed classes assigned to work in an adult or juvenile correctional or institutional facility shall, in addition to his or her regular pay, be paid seventy five (75) cents per hour for all hours paid.

Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II

3. Jail Salary Supplement and Comprehensive Care Nurse Jail Incentive shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

F. Board Certification Pay

1. For the purposes of this section, Board Certification shall mean those Board Certifications designated by a State of California or National Board.
2. Employees in pay status and assigned on a regular, full-time basis in the classifications in the Physician/Physician - Correctional series, , Public Health Medical Officer I, and Clinical Psychologist II, who are Board Certified, shall receive, in addition to his or her salary, the equivalent of three hundred fifty dollars (350) monthly (approximately one hundred sixty-one dollars and fifty-four cents (161.54) bi-weekly).

3. Employees in pay status and assigned on a regular, full-time basis in the classifications of Occupational Therapist II, Occupational Therapist III, Physical Therapist II and Physical Therapist III, who are Board Certified in Pediatric Specialty, shall receive, in addition to his or her salary, the equivalent of three hundred fourteen dollars (314) monthly (approximately one hundred forty-five dollars (145) bi-weekly.)
4. Employees in pay status and assigned on a regular, full-time basis in the classification of Psychiatrist, who are Board Certified, shall receive, in addition to his or her salary, the equivalent of eight hundred dollars (800) monthly (approximately three hundred sixty-nine and twenty-three cents (369.23) biweekly).
5. Employees in pay status and assigned on a regular, full-time basis in the classification of Psychiatrist who, in addition to the above Board Certification, are also Board Certified in a subspecialty area such as Child and Adolescent, Geriatrics, or Forensic Psychiatry, when said subspecialty certification is related to his or her assignment, shall receive, in addition to his or her salary the equivalent of one thousand dollars (1,000) monthly (approximately four hundred sixty-one and fifty four cents (461.54) biweekly).
6. Employees in pay status and assigned on a regular, full-time basis in the classification of Psychiatrist, who are designated by the Health Care Agency to perform in the role of Systems of Care Administrator (Medical Director) or MD/Chief of Direct Services shall be paid, in addition to his or her salary, the equivalent of one thousand five hundred forty dollars (1,540) monthly (approximately seven hundred ten dollars and seventy-seven cents (710.77) biweekly).
7. Employees in part-time regular or part-time limited-term positions shall receive pro-rata Board Certification pay in bi-weekly segments.
8. Employees are only eligible to receive one of the above listed premium pays, and shall receive the highest premium pay based on the above eligibility criteria and assignment.

G. Licensure Differential Pay

1. Employees designated by the agency in the classifications of Psychiatrist, in the Physician/Physician - Correctional series, , and Public Health Medical Officer I whose license is used to authorize the performance of duties and/or whose oversight is required for the performance of duties of a nurse practitioner or physicians assistant shall receive a licensure differential of one dollar and sixty cents (1.60) for each hour such licensure is required.

H. Toxic Hazardous Duty On-call Pay

An employee in the class of Hazardous Waste Specialist assigned to the Emergency Response Team for the purpose of responding to a toxic hazard emergency shall be paid \$1.00 (one-dollar) per hour for all hours required per emergency call-out.

I. Nurse Retention Incentive

1. Upon completion of approximately 10,400 service hours (approximately five years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 5,200 service hours (approximately five equivalent years of service).
2. Upon completion of approximately 20,800 service hours (approximately ten years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 10,400 service hours (approximately ten equivalent years of service).
3. The Retention Incentive shall be processed within two (2) pay periods of the completion of the required service hours.
4. The Nurse Retention Incentive does not apply to employees who have already achieved the required years of service (service hours) as of the date of adoption of this agreement.

J. Nurse Hiring Incentive

Each employee in a Nurse classification who completes new employee probation shall receive a one-time, lump sum incentive of one thousand (1,000) dollars, within (2) pay periods after completion of new employee probation.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the agency/department head and shall be based on merit.

- 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 4. 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 and sound management principles, approve a rate of pay on promotion not to exceed the top pay range to which employee is being promoted.

## Section 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.

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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. Employees hired after June 29, 2001 will be required to authorize automatic deposit of his or her paycheck to a financial institution of the employees choice.

Section 12. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) 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 section B.2., below.

a. A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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/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, except as provided in Section 1.D.4. and 5. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

- A. Upon approval of the agency/department head, employees may participate in various County sponsored training programs. The County and OCEA will inform employees of these training programs.

- B. During the term of this Memorandum of Understanding, OCEA may request specific training or development opportunities for various employees in this Unit. The County agrees to discuss such requests with OCEA and consider implementation.
- C. The agency will request the Sheriff-Coroner Department to schedule classes in Weaponless Defense Training. Such training will be made available to all employees with first priority to employees in field assignments.

Section 12. Recruitment/Selection of Nurses

In response to OCEA's proposal to convene a working group comprised of OCEA-designated representatives and County staff to formulate policies, procedures and best practices in recruitment and selection for nurse classifications, the Healthcare Agency Human Resource Services recruitment staff will offer at least two recruitment presentations at an OCEA sponsored Nurses Caucus with the first presentation occurring no later than February 29, 2016 and the second occurring approximately six (6) months thereafter.

## ARTICLE IV      LEAVE PROVISIONS

### Section 1.      Healthcare Leave

#### A.      Accrual of Healthcare Leave

1.      During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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 healthcare 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.      Healthcare leave earned shall be added to the employee's healthcare 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.      Except as required by law, extra help employees shall not earn healthcare leave.

#### B.      Permitted Uses of Healthcare Leave

Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.

Healthcare leave may be applied to:

1.      An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2.      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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).
4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare 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. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
7. 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.
8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.

9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B. above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law, 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused /healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused /Healthcare 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 /healthcare 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 /healthcare leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of /healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's /healthcare 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 healthcare 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death.
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10., 11.A., and 15., below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only use of leave balance as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B.6 of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons - 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 15 of this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources

Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.

- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.

- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
  - 1. a statement of the County's intention to implement 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 effective date of such proposed action;
  - 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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.

- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- 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 12. Leave for Attendance at Professional Conferences or to Conduct Professional Study

- A. Employees may request five (5) working days leave with pay each fiscal year for attendance at professional conferences, or to conduct professional study (which may include home or web-based study), subject to the following conditions:
1. A request is made in advance on the Request to Attend a Conference Form or Request to Conduct Professional Study Form.

2. The conference or professional study is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
  3. The employee pays all costs connected with the conference attendance or professional study, including registration, meals, transportation and/or lodging, if any.
  4. The conference or professional study is located in the United States.
  5. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.) and in the case of professional study, appropriate certification of CEU credits.
  6. The employee's workload is current and his or her performance "meets" or "exceeds" performance expectations.
- B. Attendance at conferences or requests to conduct professional study by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for more than five (5) days Leave for attendance at a professional conference or to conduct professional study in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.
- E. Attendance at conferences outside of the United States will require approval of a department head.

### Section 13. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.

2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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 healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.

- H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

Section 15. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.

- f. Leave to care for a spouse, registered domestic partner, child, parent, or “next of kin” who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

### Section 16. Leave Language Working Group

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V        VACATIONSection 1.        Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
- B. After an employee in a regular or limited-term position has been paid for six thousand two hundred forty (6,240) 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 accrual account only upon completion of each pay period.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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 subsection B., above.
- D. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be two hundred forty (240) hours. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be three hundred twenty (320) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

Section 2.        General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.

- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Section 1.C.,D., and E.) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave.
- E. 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., D., and E.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. 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.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to HealthcareLeave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- K. 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, , Election Board Officer or Election Night Help.
- L. 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.

- M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

1. After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

2. After annual leave has been exhausted, during each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Clinical Psychologist I  
 Clinical Psychologist II  
 Pharmacist  
 Physician I  
 Physician I – Correctional  
 Physician II  
 Physician II – Correctional  
 Physician III  
 Physician III – Correctional  
 Psychiatrist  
 Psychologist  
 Public Health Medical Officer I

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the

applicable cap (as set forth in Section 1.D. above) some time during the fiscal year unless the employee is able to cash out vacation time.

2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### Section 1.      Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C.                During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

### Section 2.      Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
  - 1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  - 2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  - 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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
  - 5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition

of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.

- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

Section . General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

Section 5. Payoff of Unused Annual Leave

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
  1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.
- 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.

- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII      HOLIDAYSSection 1.      Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2019:

Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020

New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021

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 24 (*Observed*)  
 New Year's Day (*Observed*)

2022

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 26 (*Observed*)

2023      New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- C. When Christmas Day or New Year's 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 or January 1, respectively, 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 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday, or for both January 1 and the following Monday.
- D. When Christmas Day or New Year's 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 or January 1, respectively, 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 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the Friday immediately preceding, or for both January 1 and the Monday 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 each regularly scheduled hour of work for that day. For employees on a 9/80 schedule, if the holiday falls on the employee's regularly scheduled 8 hour day, the employee shall receive eight (8) hours pay, computed at the employee's basic hourly rate. A 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 to a maximum of eight (8) hours of holiday pay.
- B. 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.
- C. 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 C.1. or 2. of this Section, compensatory time for each hour worked to a maximum of eight (8) hours.
- E. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
  - D. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
  - E. 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.
  - F. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Except as provided in A.2., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  2. For an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  3. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
  4. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
- 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, the maximum reimbursement that may be received by eligible employees in one fiscal year shall be \$10,000. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

Section 4. Boots

- A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.

- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step

1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

2. Findings of Facts and Remedies

a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

b. Remedies - All Disciplinary Actions (Other than Discharge)

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

2. 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. Remedies - Discharges

- 1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.
- 2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.
- 3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 PROCEDURESection 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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.

## 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 the 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 OCEA 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 healthcare leave credited to 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare leave, vacation and annual leave 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

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

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.
  - b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not

agree with the County's decision, the employee may submit the request to OCEA.

- Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.
- Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.
- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
  - b. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
  - c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this program

during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.
  - a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during

retirement, 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 change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.

- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any

right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

- 1. A surviving dependent of a retiree who was eligible to receive a Grant and who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the 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 Grant shall receive the survivor benefit described in D.1., above, or his or her

own Grant, whichever is greater. Such retiree shall not be eligible for both Grants.

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.
9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6 Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

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<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
- a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions pursuant to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

### 3. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPR and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional

1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC Plan") to those employees who are covered by the "1.62 at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC Plan, not to exceed two (2) percent of the employee's base salary (the "match"). County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to a Section 401(a) Defined Contribution 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.

### Section 4. 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 XXII    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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Healthcare Professional Unit for classes in effect on June 21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  - 1. Every agency/department shall have an LMC.
  - 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  - 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- D. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 201-2023 MOU, the salary scheduled will be increased by 2.50%.
2. Effective July 3, 2020, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

ARTICLE XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the Healthcare Professional Unit as of June 21, 2019:

5105HP	Assistant Environmental Health Specialist
7066HP	Behavioral Health Clinician I
7067HP	Behavioral Health Clinician II
4175HP	Behavioral Health Nurse
7494HP	Clinical Psychologist I
7495HP	Clinical Psychologist II
4109HP	Comprehensive Care Licensed Vocational Nurse
4161HP	Comprehensive Care Nurse I
4162HP	Comprehensive Care Nurse II
4153HP	Comprehensive Care Nurse Practitioner I
4154HP	Comprehensive Care Nurse Practitioner II
4137HP	Dental Assistant I
4138HP	Dental Assistant II
4140HP	Dental Hygienist
4586HP	Dentist
5709HP	Emergency Medical Services Coordinator
5108HP	Environmental Health Specialist I
5112HP	Environmental Health Specialist II
5116HP	Environmental Health Specialist III
8366HP	Epidemiologist
5140HP	Hazardous Materials Specialist I
5141HP	Hazardous Materials Specialist II
5142HP	Hazardous Materials Specialist III
4705HP	Health Educator
5114HP	Industrial Hygienist
4108HP	Licensed Vocational Nurse
4151HP	Nurse Practitioner I
4152HP	Nurse Practitioner II
4330HP	Occupational Therapist I
4334HP	Occupational Therapist II
4335HP	Occupational Therapist III
4329HP	Occupational Therapist Assistant II
4520HP	Pharmacist
4310HP	Physical Therapist I
4316HP	Physical Therapist II
4317HP	Physical Therapist III
4309HP	Physical Therapist Assistant II
4572HP	Physician I

4574HP	Physician I – Correctional
4576HP	Physician II
4578HP	Physician II – Correctional
4580HP	Physician III
4582HP	Physician III – Correctional
4550HP	Psychiatrist
3920HP	Public Health Chemist
3882HP	Public Health Microbiologist I
3886HP	Public Health Microbiologist II
3845HP	Public Health Microbiologist Trainee
4181HP	Public Health Nurse I
4182HP	Public Health Nurse II
4185HP	Public Health Nurse III
4721HP	Public Health Nutritionist I
4724HP	Public Health Nutritionist II
4186HP	Senior Public Health Nurse
4144HP	Senior Staff Nurse
4143HP	Staff Nurse
5150HP	Veterinarian

# MEMORANDUM OF UNDERSTANDING

COUNTY HEALTHCARE PROFESSIONAL  
UNIT

20198 – 2023~~19~~

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING

201~~98~~ - 20~~23~~19

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

COUNTY HEALTHCARE PROFESSIONAL UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on ~~July 31~~October 22, 201~~98~~ sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the County Healthcare Professional Unit for the period beginning June ~~21~~23, 201~~98~~ through June ~~29~~30, 20~~23~~19. Unless otherwise indicated herein, all provisions shall become effective ~~October 22~~June 23, 201~~98~~.

## **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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 healthcare** 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the terms, "sick" and/or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or Agency/Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.

- E. 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.
- F. 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 OCEA, 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;
    - c. twelve (12) hour workdays;
    - d. flex time.
  - 2. The County shall initiate such studies within thirty (30) days and provide a written response within ninety (90) days.
  - 3. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  - 4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 work of the apparent need 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the

employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3. above.

C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### 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. Except as provided in 5. and 6., below, 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. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

3. Except as provided in 4., 5. and 6. below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents per hour.
4. The rate of night shift differential for employees in the classes listed below shall be one (1) dollar and twenty-five (25) cents per hour:

Behavioral Health Nurse  
 Comprehensive Care Physician Assistant I  
 Comprehensive Care Physician Assistant II  
 Licensed Vocational Nurse

Nurse Practitioner Candidate  
 Nurse Practitioner I  
 Nurse Practitioner II  
 Physician Assistant I  
 Physician Assistant II  
 Public Health Nurse I  
 Public Health Nurse II  
 Public Health Nurse III  
 Senior Public Health Nurse  
 Senior Staff Nurse  
 Staff Nurse

5. An employee in the below listed classes who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one dollar and seventy-five (\$1.75) cents per hour for each hour actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II  
 Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II  
 Comprehensive Care Physicians Assistant I  
 Comprehensive Care Physicians Assistant II  
 Marriage Family Therapist I  
 Marriage Family Therapist II  
 Medical Assistant

6. An employee in the below listed classes who works an assigned late night shift where the majority of hours are between 11:00p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II  
 Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II  
 Comprehensive Care Physicians Assistant I  
 Comprehensive Care Physicians Assistant II  
 Marriage Family Therapist I  
 Marriage Family Therapist II

#### 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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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. Except as provided in 6.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine (69) dollars per month) for all hours actually paid.
  - 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 Chief Human Resources Officer.

2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour

(approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Behavioral Health Nurse  
 Clinical Psychologist I  
 Clinical Psychologist II  
~~Community Mental Health Psychiatrist~~  
 Comprehensive Care Licensed Vocational Nurse I  
 Comprehensive Care Licensed Vocational Nurse II  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse III  
 Comprehensive Care Nurse Practitioner  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II  
 Comprehensive Care Physician Assistant I  
 Comprehensive Care Physician Assistant II  
 Dentist  
 Health Educator  
 Licensed Vocational Nurse  
 Nurse Mid-Wife I  
 Nurse Mid-Wife II  
 Nurse Practitioner I  
 Nurse Practitioner II  
 Nurse Practitioner Candidate  
 Occupational Therapist I  
 Occupational Therapist II  
 Occupational Therapist III  
 Public Health Nutritionist I  
 Public Health Nutritionist II  
 Physical Therapist I  
 Physical Therapist II  
 Physical Therapist III  
 Physician Assistant I  
 Physician Assistant II  
 Physician-Specialist  
~~Psychiatrist~~  
 Psychologist I  
 Psychologist II  
 Public Health Medical Officer I  
 Public Health Nurse I  
 Public Health Nurse II  
 Public Health Nurse III  
 Senior Public Health Nurse  
 Senior Staff Nurse  
 Staff Nurse

3. Specialized Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency management to perform specialized bilingual duties that are essential to the performance of their professional duties and responsibilities shall receive an additional ninety (90¢) cents per hour (approximately one hundred and fifty-six (\$156) dollars per month) for all hours actually paid:

Clinical Social Worker I  
 Clinical Social Worker II  
 Marriage Family Therapist I  
 Marriage Family Therapist II

4. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
5. Bilingual pay shall not apply to workers' compensation supplement pay.
6. 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.
7. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

#### E. Jail Salary Supplement

1. An employee classified in one of the classes listed below who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Theo Lacy Branch Jail or James Musick Facility shall, in addition to biweekly salary, be paid an additional seventy-five (75) cents per hour for all paid hours:

Clinical Psychologist I  
 Clinical Psychologist II  
 Clinical Social Worker I  
 Clinical Social Worker II  
~~Community Mental Health Psychiatrist~~  
 Comprehensive Care Physician Assistant I  
 Comprehensive Care Physician Assistant II

Dental Assistant I  
 Dental Assistant II  
 Dental Hygienist  
 Dentist  
 Marriage Family Therapist I  
 Marriage Family Therapist II  
 Medical Assistant  
 Pharmacist  
Physician I – Correctional  
Physician II – Correctional  
Physician III – Correctional  
 Physician Assistant I  
 Physician Assistant II  
 Physician Specialist  
Psychiatrist  
 Psychologist I  
 Public Health Medical Officer I

2. Comprehensive Care Nurse Jail Incentive

An employee in any of the below listed classes assigned to work in an adult or juvenile correctional or institutional facility shall, in addition to his or her regular pay, be paid seventy five (75) cents per hour for all hours paid.

Comprehensive Care Licensed Vocational Nurse  
 Comprehensive Care Nurse I  
 Comprehensive Care Nurse II  
 Comprehensive Care Nurse Practitioner I  
 Comprehensive Care Nurse Practitioner II

3. Jail Salary Supplement and Comprehensive Care Nurse Jail Incentive shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

F. Board Certification Pay

1. For the purposes of this section, Board Certification shall mean those Board Certifications designated by a State of California or National Board.
2. Employees in pay status and assigned on a regular, full-time basis in the classifications in the of ~~Physician/Physician - Correctional series, Physician - Specialist,~~ Public Health Medical Officer I, and Clinical Psychologist II, who are Board Certified, shall receive, in addition to his or her salary, the equivalent of three hundred fifty dollars (350) monthly (approximately one hundred sixty-one dollars and fifty-four cents (161.54) bi-weekly).

3. Employees in pay status and assigned on a regular, full-time basis in the classifications of Occupational Therapist II, Occupational Therapist III, Physical Therapist II and Physical Therapist III, who are Board Certified in Pediatric Specialty, shall receive, in addition to his or her salary, the equivalent of three hundred fourteen dollars (314) monthly (approximately one hundred forty-five dollars (145) bi-weekly.)
4. Employees in pay status and assigned on a regular, full-time basis in the classification of ~~Community Mental Health~~ Psychiatrist, who are Board Certified, shall receive, in addition to his or her salary, the equivalent of eight hundred dollars (800) monthly (approximately three hundred sixty-nine and twenty-three cents (369.23) biweekly).
5. Employees in pay status and assigned on a regular, full-time basis in the classification of ~~Community Mental Health~~ Psychiatrist who, in addition to the above Board Certification, are also Board Certified in a subspecialty area such as Child and Adolescent, Geriatrics, or Forensic Psychiatry, when said subspecialty certification is related to his or her assignment, shall receive, in addition to his or her salary the equivalent of one thousand dollars (1,000) monthly (approximately four hundred sixty-one and fifty four cents (461.54) biweekly).
6. Employees in pay status and assigned on a regular, full-time basis in the classification of ~~Community Mental Health~~ Psychiatrist, who are designated by the Health Care Agency to perform in the role of Systems of Care Administrator (Medical Director) or MD/Chief of Direct Services shall be paid, in addition to his or her salary, the equivalent of one thousand five hundred forty dollars (1,540) monthly (approximately seven hundred ten dollars and seventy-seven cents (710.77) biweekly).
7. Employees in part-time regular or part-time limited-term positions shall receive pro-rata Board Certification pay in bi-weekly segments.
8. Employees are only eligible to receive one of the above listed premium pays, and shall receive the highest premium pay based on the above eligibility criteria and assignment.

G. Licensure Differential Pay

1. Employees designated by the agency in the classifications of ~~Community Mental Health~~ Psychiatrist, in the Physician/Physician - Correctional series, Physician, Physician - Specialist, and Public Health Medical Officer I whose license is used to authorize the performance of duties and/or whose oversight is required for the performance of duties of a nurse practitioner or physicians assistant shall receive a licensure differential of one dollar and sixty cents (1.60) for each hour such licensure is required.

#### H. Toxic Hazardous Duty On-call Pay

An employee in the class of Hazardous Waste Specialist assigned to the Emergency Response Team for the purpose of responding to a toxic hazard emergency shall be paid \$1.00 (one-dollar) per hour for all hours required per emergency call-out.

#### I. Nurse Retention Incentive

1. Upon completion of approximately 10,400 service hours (approximately five years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 5,200 service hours (approximately five equivalent years of service).
2. Upon completion of approximately 20,800 service hours (approximately ten years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 10,400 service hours (approximately ten equivalent years of service).
3. The Retention Incentive shall be processed within two (2) pay periods of the completion of the required service hours.
4. The Nurse Retention Incentive does not apply to employees who have already achieved the required years of service (service hours) as of the date of adoption of this agreement.

#### J. Nurse Hiring Incentive

Each employee in a Nurse classification who completes new employee probation shall receive a one-time, lump sum incentive of one thousand (1,000) dollars, within (2) pay periods after completion of new employee probation.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the agency/department head and shall be based on merit.

- 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 4. 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 and sound management principles, approve a rate of pay on promotion not to exceed the top pay range to which employee is being promoted.

## Section 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.

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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

#### Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. Employees hired after June 29, 2001 will be required to authorize automatic deposit of his or her paycheck to a financial institution of the employees choice.

#### Section 12. Classification and Compensation Studies

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the term of this agreement and thereafter until the backlog of required studies~~

~~has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated. The County therefore~~ agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

## ARTICLE III      GENERAL PERSONNEL PROVISIONS

### Section 1.      Probation

#### A.      New Probation

##### 1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

##### 2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) 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 section B.2., below.

a. A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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/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, except as provided in Section 1.D.4. and 5. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and healthcare sick 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 annual leave, vacation and healthcare sick leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

Section 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

- A. Upon approval of the agency/department head, employees may participate in various County sponsored training programs. The County and OCEA will inform employees of these training programs.

- B. During the term of this Memorandum of Understanding, OCEA may request specific training or development opportunities for various employees in this Unit. The County agrees to discuss such requests with OCEA and consider implementation.
- C. The agency will request the Sheriff-Coroner Department to schedule classes in Weaponless Defense Training. Such training will be made available to all employees with first priority to employees in field assignments.

Section 12. Recruitment/Selection of Nurses

In response to OCEA's proposal to convene a working group comprised of OCEA-designated representatives and County staff to formulate policies, procedures and best practices in recruitment and selection for nurse classifications, the Healthcare Agency Human Resource Services recruitment staff will offer at least two recruitment presentations at an OCEA sponsored Nurses Caucus with the first presentation occurring no later than February 29, 2016 and the second occurring approximately six (6) months thereafter.

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Sick-Healthcare Leave

~~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.~~

#### A. Accumulation-Accrual of SickHealthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of sickhealthcare 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-healthcare 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-Healthcare leave earned shall be added to the employee's sick healthcare 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. Except as required by law, extra help employees shall not earn sick healthcare leave.

#### B. Permitted Uses of Sick-Healthcare Leave

~~Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.~~

SickHealthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. ~~Medical and dental office appointments when absence during working hours for this purpose is authorized by the agency/department.~~

~~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.~~

24. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

35. Absence from duty because: ~~(1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(e).~~

4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.

56. Illness while on paid vacation will be charged to sickhealthcare 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 sickhealthcare 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.

~~7. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.~~

~~68.~~ An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

~~7. 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.~~

~~8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.~~

~~9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.~~

#### C. Prohibited Uses of Sick-Healthcare Leave

~~1.~~ SickHealthcare leave shall not be applied to:

~~1.~~ a. Absence caused by illness or injury to a member of the employee's family except as provided in B. 4., B.5., or B.6., or B.8., above.

~~2.~~ b. Absences which occur on a County holiday.

~~2.~~ Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

#### D. General Provisions

1. In any use of sick-healthcare leave, an employee's account shall be charged to the nearest quarter hour.

2. Except as prohibited by law, 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:

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/healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Sick/Healthcare 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/healthcare 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/healthcare leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of sick/healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's sick/healthcare 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 sickhealthcare 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. Such request must be made at least thirty (30) 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.~~

46. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining sick-healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sick-healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sick-healthcare days and to accrue additional paid sick-healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.

B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) regularly scheduled shifts days in any one (1) instance for each death, to arrange for or attend a funeral of a member of their immediate family and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, step-child, grandparent, grandchild or legal guardian.

C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

D. An employee may request additional time off for bereavement. Additional timeoff shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10., 11.A., and 15., below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only use of leave balance as specified below:

- a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, sick healthcare leave and annual leave have been used;
- b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, sick healthcare leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons - 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 15 of this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

#### 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 setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued **sickhealthcare** leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

## Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above,

the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:

1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of sick-healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

## Section 10. 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 (6) 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, compensatory time 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-Healthcare leave or annual leave must 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 11. 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-healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- 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 12. Leave for Attendance at Professional Conferences or to Conduct Professional Study

- A. Employees may request five (5) working days leave with pay each fiscal year for attendance at professional conferences, or to conduct professional study (which may include home or web-based study), subject to the following conditions:
1. A request is made in advance on the Request to Attend a Conference Form or Request to Conduct Professional Study Form.
  2. The conference or professional study is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
  3. ~~3.~~—The employee pays all costs connected with the conference attendance or professional study, including registration, meals, transportation and/or lodging, if any.
  4. The conference or professional study is located in the United States.

**5.4.** The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.) and in the case of professional study, appropriate certification of CEU credits.

**6.5.** The employee's workload is current and his or her performance "meets" or "exceeds" performance expectations.

- B. Attendance at conferences or requests to conduct professional study by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for more than five (5) days Leave for attendance at a professional conference or to conduct professional study in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.
- E. Attendance at conferences outside of the general area United States will require approval of a department head, under the County Travel Request procedure and is not covered by this provision.

### Section 13. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
  1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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, ~~annual leave and sick-healthcare~~ 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in Subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

#### Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 15. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time

during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, ~~sick-healthcare~~ leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of ~~sick-healthcare~~ 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or

registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 16. Leave Language Working Group

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V      VACATIONSection 1.      Accumulation of Vacation Accrual

~~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.~~

- A. ~~During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period. 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 (6,240) 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-accrual 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 (20,80420,800 regularly scheduled hours), 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 subsection 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.~~

- DE. The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of continuous County service ~~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 an employee may accrue at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of continuous County service (20,801-20,800 regularly scheduled hours) ~~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.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

A. ~~Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.~~

BA. Not more than eighty (80) hours of paid time may be credited toward ~~accumulation~~ accrual of vacation credit in any pay period.

C. ~~As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,801-20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.~~

DB. ~~Approved unpaid leaves, including Non-Medical Discretionary, An Official Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave~~ shall cause the aforementioned ten (10) years (Article V, Section 1.C., D., and E.) of full-time County service to be postponed a number of calendar days equal to the ~~Official Leave~~ approved unpaid Leave.

EC. 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., D., and E.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.

FD. Additional vacation earned during the period of vacation may be taken consecutively.

- ~~EG.~~ In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- ~~HF.~~ 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.
- ~~IG.~~ No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- ~~HJ.~~ Illness while on paid vacation will be charged to HealthcareSick Leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- ~~IK.~~ 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.
- ~~JL.~~ 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.~~ During each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

~~M.~~ When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

1. After annual leave has been exhausted, dDuring each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally

feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

~~L.~~ **2. After annual leave has been exhausted, d**uring each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Clinical Psychologist I  
 Clinical Psychologist II  
~~Community Mental Health Psychiatrist~~  
 Pharmacist  
 Physician I  
 Physician I – Correctional  
 Physician II  
 Physician II – Correctional  
 Physician III  
 Physician III – Correctional  
~~Physician – Specialist~~  
~~Psychiatrist~~  
 Psychologist  
 Public Health Medical Officer I

~~M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.~~

**B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave**

**1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. above) some time during the fiscal year unless the employee is able to cash out vacation time.**

**2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.**

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

~~Employees hired prior to July 15, 1977 shall be covered by the Sick Leave and Vacation provisions of this Memorandum of Understanding. Annual leave will consist of the combined sick leave, vacation balances, and accruals for employees covered by the Annual Leave Plan.~~

### 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 full-time 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 balance 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 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.

B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,801-20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except

as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid ~~sick~~healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered ~~sick~~healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

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

#### 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 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 (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.~~

~~AE.~~ In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~

~~BG.~~ 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.

~~H. 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 the 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. Payoff of Unused Annual Leave

~~A. A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:~~

~~1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.~~

~~2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.~~

~~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 five (20) hours each or one (1) increment of up to fifty forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~B. During each fiscal year, employees in the following classes may request to be paid for accrued annual leave in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~Clinical Psychologist I~~

~~Clinical Psychologist II~~

~~Community Mental Health Psychiatrist~~

~~Pharmacist~~

~~Physician~~

~~Physician – Specialist~~

~~Psychologist~~

~~Public Health Medical Officer I~~

~~BC. 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

**C.D.** 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.E.** An employee who is 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 above.

A.E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII HOLIDAYSSection 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

~~2018~~ ~~Independence Day, July 4~~  
~~Labor Day, September 3~~  
~~Columbus Day, October 8~~  
~~Veteran's Day, November 12~~  
~~Thanksgiving Day, November 22~~  
~~Day After Thanksgiving, November 23~~  
~~Christmas Day, December 25~~

2019: ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 21~~  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 18~~  
~~Memorial Day, May 27~~  
~~Independence Day, July 4~~  
~~Labor Day, September 2~~  
~~Columbus Day, October 14~~  
~~Veteran's Day, November 11~~  
~~Thanksgiving Day, November 28~~  
~~Day After Thanksgiving, November 29~~  
~~Christmas Day, December 25~~

2020 ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 20~~  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 17~~  
~~Memorial Day, May 25~~  
~~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~~

2021 ~~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 24 ( <i>Observed</i> )
	New Year's Day ( <i>Observed</i> )
2022	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 26 ( <i>Observed</i> )
2023	New Year's Day, January 2 ( <i>Observed</i> )
	Martin Luther King, Jr.'s Birthday, January 16
	Lincoln's Birthday, February 12
	Washington's Birthday, February 20
	Memorial Day, May 29

- B. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- C. When Christmas Day or New Year's 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 or January 1, respectively, 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 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday, or for both January 1 and the following Monday.
- D. When Christmas Day or New Year's 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 or January 1, respectively, 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 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the Friday immediately preceding, or for both January 1 and the Monday 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 each regularly scheduled hour of work for that day. For employees on a 9/80 schedule, if the holiday falls on the employee's regularly scheduled 8 hour day, the employee shall receive eight (8) hours pay, computed at the employee's basic hourly rate. A 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 to a maximum of eight (8) hours of holiday pay.
- B. 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.
- C. 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 C.1. or 2. of this Section, compensatory time for each hour worked to a maximum of eight (8) hours.

E. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

- D. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
- E. 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.
- F. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Except as provided in A.2., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  2. For an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  3. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
  4. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
- 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, the maximum reimbursement that may be received by eligible employees in one fiscal year shall be \$10,000. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

### Section 4. Boots

A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.

B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.

- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step

1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 fo 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

2. Findings of Facts and Remedies

a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

b. Remedies - All Disciplinary Actions (Other than Discharge)

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

2. 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. Remedies - Discharges

- 1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.
- 2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.
- 3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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.

## 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 the 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 OCEA 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 **healthcare sick** leave credited to 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 annual leave, **healthcare sick** leave and vacation, 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 Chief Human Resources Officer.
  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 **healthcare** ~~sick~~-leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any **healthcare** ~~sick~~-leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue **healthcare** ~~sick~~-leave, annual 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 **healthcare** ~~sick~~-leave, compensatory time, annual leave and/or vacation expended since the fourth 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 **healthcare** ~~sick~~-leave, compensatory time, annual leave 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 healthcare sick leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare sick leave, vacation and annual leave 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, healthcare 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

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

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.
  - b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not

agree with the County's decision, the employee may submit the request to OCEA.

- Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.
- Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.
- a. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
  - b. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
  - c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.

3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this program

during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.
  - a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during

retirement, 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 change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.

- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any

right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

- 1. A surviving dependent of a retiree who was eligible to receive a Grant and who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the 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 Grant shall receive the survivor benefit described in D.1., above, or his or her

own Grant, whichever is greater. Such retiree shall not be eligible for both Grants.

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.
9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6 Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of ~~the a Insurance Working Group meetings (See Section 6.A above)~~.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
    - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
  - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions pursuant to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative-ratio based methodology will be used to determine the additional employee contribution toward the "2.7% at 55" retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRAs and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.

c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.

d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC Plan") to those employees who are covered by the "1.62 at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the DC Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date,~~ The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the DC Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the DC Plan(s) and the County contributions to a Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the DC Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

#### Section 4. 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 XXII 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 XXIII    RECOGNITION**

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Healthcare Professional Unit for classes in effect on **June 213, 20198**. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  - 1. Every agency/department shall have an LMC.
  - 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  - 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
  - E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- ~~E.D.~~ Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this ~~2018-2023~~ MOU, the salary scheduled will be increased by 24.50%.
2. Effective ~~January 4, 2019~~ July 3, 2020, the salary schedule will be increased by ~~1.00~~ 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

**ARTICLE XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

**Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.**

## APPENDIX A

Classes included in the Healthcare Professional Unit as of June **213, 20198**:

5105HP Assistant Environmental Health Specialist  
~~7066HP Behavioral Health Clinician I~~  
~~7067HP Behavioral Health Clinician II~~  
4175HP Behavioral Health Nurse  
7494HP Clinical Psychologist I  
7495HP Clinical Psychologist II  
~~7074HP Clinical Social Worker I~~  
~~7076HP Clinical Social Worker II~~  
4109HP Comprehensive Care Licensed Vocational Nurse  
4161HP Comprehensive Care Nurse I  
4162HP Comprehensive Care Nurse II  
4153HP Comprehensive Care Nurse Practitioner I  
4154HP Comprehensive Care Nurse Practitioner II  
4137HP Dental Assistant I  
4138HP Dental Assistant II  
~~4140HP Dental Hygienist~~  
4586HP Dentist  
5709HP Emergency Medical Services Coordinator  
5108HP Environmental Health Specialist I  
5112HP Environmental Health Specialist II  
5116HP Environmental Health Specialist III  
8366HP Epidemiologist  
5140HP Hazardous Materials Specialist I  
5141HP Hazardous Materials Specialist II  
5142HP Hazardous Materials Specialist III  
4705HP Health Educator  
5114HP Industrial Hygienist  
4108HP Licensed Vocational Nurse  
~~7113HP Marriage Family Therapist I~~  
~~7114HP Marriage Family Therapist II~~  
4151HP Nurse Practitioner I  
4152HP Nurse Practitioner II  
4330HP Occupational Therapist I  
4334HP Occupational Therapist II  
4335HP Occupational Therapist III  
4329HP Occupational Therapist Assistant II  
4520HP Pharmacist  
4310HP Physical Therapist I  
4316HP Physical Therapist II  
4317HP Physical Therapist III  
4309HP Physical Therapist Assistant II  
4572HP Physician I

4574HP	Physician I – Correctional
4576HP	Physician II
4578HP	Physician II – Correctional
4580HP	Physician III
4582HP	Physician III – Correctional
<del>4550HP</del>	<del>Psychiatrist</del>
<del>7492HP</del>	<del>Psychologist</del>
3920HP	Public Health Chemist
3882HP	Public Health Microbiologist I
3886HP	Public Health Microbiologist II
3845HP	Public Health Microbiologist Trainee
4181HP	Public Health Nurse I
4182HP	Public Health Nurse II
4185HP	Public Health Nurse III
4721HP	Public Health Nutritionist I
4724HP	Public Health Nutritionist II
4186HP	Senior Public Health Nurse
4144HP	Senior Staff Nurse
4143HP	Staff Nurse
5150HP	Veterinarian

# MEMORANDUM OF UNDERSTANDING

## OFFICE SERVICES UNIT

2019 – 2023

COUNTY OF ORANGE AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION  
FOR THE  
OFFICE SERVICES UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019, sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Office Services Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective June October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 Healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the terms, "sick" and/or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1. Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.

- E. 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.
- F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  - 4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement, regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Section 2.B.2., above.

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, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### Section 4. Exclusions from Workweek and Overtime Provisions

Clerical employees of individual members of the Board of Supervisors shall work such hours as directed by the Supervisor appointing them and shall not be subject to any of the provisions of Section 1. 2. or 3.

### Section 5. 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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents 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 duty requires the employee so assigned to: (1) be reachable by telephone or other communications device; (2) be able to report to work in a reasonable time; and (3) refrain from activities which might impair his or her ability to perform assigned duties.
3. 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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 forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.
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.
  4. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

E. Jail Salary Supplement

1. An employee who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, Warrant Bureau, Theo Lacy Branch Jail or James Musick Facility shall, in addition to his or her biweekly salary, be paid an additional seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours.
2. This salary supplement shall not apply to workers' compensation supplement pay, or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 Chief Executive Officer may authorize the appointment of employees beyond step eight (8) 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 3. 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-step increase. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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.
- 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 4. 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 and position responsibilities, 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 7. 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.

## Section 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

## Section 11. Salaries of Employees of Members of the Board of Supervisors

The Board of Supervisors may at any time change the salary ranges for the classes of Executive Clerk I, II and III and Executive Secretary. The step placement on a salary range for clerical employees shall be determined by the Board member appointing them and may be changed at any time by the Board member.

Section 12. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 13. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for twenty-six (26) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period 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 section B.2., below.
  - a. A full-time employee shall serve a probation period equal to the time period of the initial probation 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, ending with the first day of the pay period following completion of said period.
2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.

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 XVIII, 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 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, except as provided in Sections 1.D.4. and 5. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
3. An employee who is on probation may not transfer from one (1) agency/department to another in the same class without the approval of the Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

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 agency/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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) agency/department to another.

Section 9. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

Section 10. Clerical Employees of the Board of Supervisors and Secretaries to Agency/Department Heads - General Regulations

- A. Clerical employees of individual members of the Board of Supervisors shall serve at the pleasure of the Board member holding that office. They may be terminated at any time and, in such event, shall have no right to any appeal or grievance procedure under any rule or regulation of the County or the State.
- B. Secretaries to Elected Department Heads shall serve at the pleasure of the Department Head. They may be terminated at any time and, in such event, shall have no right to any appeal or grievance procedure under any rule or regulation of the County or the State.
- C. An Executive Secretary to an appointed agency/department head shall serve at the pleasure of the appointed agency/department head. The employee may be terminated at any time and, in such event, shall have no right of appeal or grievance procedure under any rules or regulations of the County or the State, except as provided in D. below.

- D. An Executive Secretary serving at the pleasure of an Appointed agency/department head who, immediately prior to appointment, held regular status in a lower related class, may be removed from the Executive Secretary position at any time and, in such event, shall have no right of appeal or grievance procedure under any rules or regulations of the County or the State. Upon removal, the employee shall have the right to return to a position in the former class.

The acceptance by a regular employee of a position as Executive Secretary serving at the pleasure of an appointed agency/department head shall be voluntary.

If an employee who held regular status in a Secretary III position immediately prior to accepting the Executive Secretary position requests to return to the class of Secretary III, such request shall be granted.

Section 11. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 12. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Healthcare Leave

#### A. Accrual of Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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 healthcare 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. Healthcare leave earned shall be added to the employee's healthcare 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. Except as required by law, extra help employees shall not earn healthcare leave.

#### B. Permitted Uses of Healthcare Leave

Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.

Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).
4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare 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. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
7. 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.
8. Absence from duty because of personal personal business not to exceed forty (40) working hours during the fiscal year.

9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B. above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare 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 /healthcare 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 /healthcare leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of /healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's /healthcare 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 /healthcare 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.

- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death.
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsection 5. and 6., below, shall not apply.

3. An employee who has requested and identified valid need for Family Leave pursuant to Article IV, Section 14, and applicable law, shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections B.4, B.5 or B.6 of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

### Section 4. Official Leave for Non-occupational 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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be

considered an automatic resignation.

- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.

- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 Non-occupational 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 11. 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

healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- 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 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.

4. OCEA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.
  5. The employee shall continue to conform to the agency/department rules and regulations that are not inconsistent with Presidential 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 healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 14. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.,
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under

this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).

When a request for Family Leave is approved, the agency/department shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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 such case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in

advance such leave is foreseeable.

4. 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 15. Leave Language Working Group

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

## ARTICLE V VACATION

### Section 1. Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
- 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 accrual account only upon completion of each pay period.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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 subsection B., above.
- D. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be two hundred forty (240) hours. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be three hundred twenty (320) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

### Section 2. General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.
- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave 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 approved unpaid Leave.
- E. 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.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. 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.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to Healthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- K. 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, Election Board Officer or Election Night Help.
- L. 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.
- M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

1. After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.
  
2. After annual leave has been exhausted, during each fiscal year, employees in the classification of Data Entry Technician may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

## ARTICLE VI ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### Section 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

### Section 2. Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
  - 1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  - 2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  - 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. 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.
  - 5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code

sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

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

Section 4. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash-out procedures will be governed by Section 5. A.1, above.
- 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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.
- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

## ARTICLE VII        HOLIDAYS

### Section 1.        Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

- 2019: Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25
- 2020 New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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
- 2021 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 24 (*Observed*)  
 New Year's Day (*Observed*)
- 2022 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 26 (*Observed*)

2023      New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.
- F. 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
  - F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
  - G. 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.
  - H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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. Boots

- A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## Section 4. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## 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/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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2. above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies – All Disciplinary Actions (Other than Discharge)

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

#### 1. Suspensions/Reductions

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

### c. Remedies - Discharges

- 1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.
- 2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.
- 3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forgo the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 knowledge 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 OCEA 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 healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in paragraph A., 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 healthcare leave, vacation and annual leave 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

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

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified, and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee's premium or fifty (50) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee's eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee's eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.

3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse

shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For Employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 14 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund approved by the State of California for the sole purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said State approved trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 14 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County- offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

B. Retiree Medical Plan Lump Sum; Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a., b., c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant

based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6 Reopener

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

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<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1. An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2. The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.      The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979, the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
- a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

## 2. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.
- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

## Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010 the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC Plan") to those

employees who are covered by the “1.62% at 65” benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be “new members” within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.

- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC Plan, not to exceed two (2) percent of the employee’s base salary (the “match”). County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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.

#### Section 4. 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 XXII    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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Office Services Unit for classes in effect on June 21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year. All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.
2. Effective July 3, 2020, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.50%.

ARTICLE XXVIII      DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the Office Services Unit as of June 21, 2019:

0805CL Accounting Assistant I  
0810CL Accounting Assistant II  
0832CL Accounting Specialist  
0835CL Accounting Technician  
0558CL Attorney's Clerk I  
0559CL Attorney's Clerk II  
0638CL Board Services Specialist  
0637CL Board Services Trainee  
0830CL Cashier  
0545CL Civil Process Technician  
0541CL Civil Process Technician Trainee  
0530CL Customer Relations Assistant  
0538CL Data Entry Specialist  
0537CL Data Entry Technician  
0643CL Election Aide  
0644CL Election Worker  
0382CL Estate Administration Specialist I  
0383CL Estate Administration Specialist II  
0914CL Estate Inventory Clerk  
0595CL Executive Secretary I  
0596CL Executive Secretary II  
0640CL Lead Board Services Specialist  
0567CL Legal Secretary  
0566CL Legal Secretary Trainee  
0631CL Medical Billing Specialist  
0633CL Medical Transcriber I  
0634CL Medical Transcriber II  
131CL Micrographics Technician I  
0504CL Office Assistant  
0536CL Office Specialist  
0522CL Office Technician  
0503CL Office Trainee  
1408CL Park Attendant  
0505CL Property Tax Technician  
0579CL Secretary I  
0578CL Secretary II  
0580CL Secretary III  
0581CL Secretary to CAO  
0815CL Senior Accounting Assistant  
0639CL Senior Board Services Specialist  
0568CL Senior Legal Secretary  
0852CL Senior Library Clerk  
0635CL Senior Medical Billing Specialist  
0905CL Store Clerk  
0908CL Supplies Clerk, Juvenile Facilities

# MEMORANDUM OF UNDERSTANDING

## OFFICE SERVICES UNIT

20198 - ~~2019~~2023

COUNTY OF ORANGE AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING

~~2018-2019~~ - ~~2019~~2023

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

OFFICE SERVICES UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019, sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Office Services Unit for the period beginning June ~~23~~21, ~~2018-2019~~ through June ~~2029, 2019~~2023. Unless otherwise indicated herein, all provisions shall become effective June ~~23, 2018~~October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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-Healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the terms, "sick" and/or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
  2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
  3. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.

- E. 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.
- F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  - 4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement, regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Section 2.B.2., above.

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, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### Section 4. Exclusions from Workweek and Overtime Provisions

Clerical employees of individual members of the Board of Supervisors shall work such hours as directed by the Supervisor appointing them and shall not be subject to any of the provisions of Section 1. 2. or 3.

### Section 5. 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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents 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 duty requires the employee so assigned to: (1) be reachable by telephone or other communications device; (2) be able to report to work in a reasonable time; and (3) refrain from activities which might impair his or her ability to perform assigned duties.
3. 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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 forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.
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.
  4. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

#### E. Jail Salary Supplement

1. An employee who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, Warrant Bureau, Theo Lacy Branch Jail or James Musick Facility shall, in addition to his or her biweekly salary, be paid an additional seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours.
2. This salary supplement shall not apply to workers' compensation supplement pay, or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 Chief Executive Officer may authorize the appointment of employees beyond step eight (8) 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 3. 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-step increase. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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.
- 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 4. 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 and position responsibilities, 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 7. 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.

Section 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

Section 11. Salaries of Employees of Members of the Board of Supervisors

The Board of Supervisors may at any time change the salary ranges for the classes of Executive Clerk I, II and III and Executive Secretary. The step placement on a salary range for clerical employees shall be determined by the Board member appointing them and may be changed at any time by the Board member.

Section 12. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 13. Classification and Compensation Studies

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated. The County therefore~~ agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for twenty-six (26) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period 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 section B.2., below.
  - a. A full-time employee shall serve a probation period equal to the time period of the initial probation 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, ending with the first day of the pay period following completion of said period.
2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.

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 XVIII, 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 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, except as provided in Sections 1.D.4. and 5. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
3. An employee who is on probation may not transfer from one (1) agency/department to another in the same class without the approval of the Chief Human Resources Officer.

#### E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and sick-healthcare 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 annual leave, vacation and sick-healthcare leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

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 agency/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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) agency/department to another.

Section 9. On-Duty Meals

The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.

Section 10. Clerical Employees of the Board of Supervisors and Secretaries to Agency/Department Heads - General Regulations

- A. Clerical employees of individual members of the Board of Supervisors shall serve at the pleasure of the Board member holding that office. They may be terminated at any time and, in such event, shall have no right to any appeal or grievance procedure under any rule or regulation of the County or the State.
- B. Secretaries to Elected Department Heads shall serve at the pleasure of the Department Head. They may be terminated at any time and, in such event, shall have no right to any appeal or grievance procedure under any rule or regulation of the County or the State.
- C. An Executive Secretary to an appointed agency/department head shall serve at the pleasure of the appointed agency/department head. The employee may be terminated at any time and, in such event, shall have no right of appeal or grievance procedure under any rules or regulations of the County or the State, except as provided in D. below.

- D. An Executive Secretary serving at the pleasure of an Appointed agency/department head who, immediately prior to appointment, held regular status in a lower related class, may be removed from the Executive Secretary position at any time and, in such event, shall have no right of appeal or grievance procedure under any rules or regulations of the County or the State. Upon removal, the employee shall have the right to return to a position in the former class.

The acceptance by a regular employee of a position as Executive Secretary serving at the pleasure of an appointed agency/department head shall be voluntary.

If an employee who held regular status in a Secretary III position immediately prior to accepting the Executive Secretary position requests to return to the class of Secretary III, such request shall be granted.

Section 11. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 12. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Sick-Healthcare Leave

~~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.~~

#### A. Accumulation of Sick-Accrual of Healthcare Leave

1. During the first three (3) years of employment, an employee shall earn .0347 hours of sick-healthcare 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-healthcare 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-Healthcare leave earned shall be added to the employee's sick-healthcare 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. Except as required by law, extra help employees shall not earn sick-healthcare leave.

#### B. Permitted Uses of Sick-Healthcare Leave

~~Employees with annual leave balances must use accrued annual leave prior to use of sick healthcare leave, until all annual leave has been taken.~~

Sick-Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
2. ~~Medical and dental office appointments when absence during working hours for this purpose is authorized by the agency/department.~~

~~3-2. 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.~~

4-3. 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, ~~provided that such absence shall be limited to a maximum of three (3) working days for each occurrence.~~ For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. ~~Use of this leave is limited to the time period specified in Labor Code section 233.~~

5-4. Absence from duty because: ~~(1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).~~

4. ~~If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.~~

6-5. Illness while on paid vacation will be charged to ~~sick-healthcare~~ 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-healthcare 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.

~~7.5. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.~~

~~8.6. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.~~

~~7. 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.~~

~~8. Absence from duty because of personal emergencies or personal business not to exceed thirtyfoury (430) working hours during the fiscal year.~~

~~9. Up to eight (8) hours of sick-healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.~~

#### C. Prohibited Uses of Sick-Healthcare Leave

1. Sick-Healthcare leave shall not be applied to:

~~1. a.~~ Absence caused by illness or injury to a member of the employee's family except as provided in B. ~~4., B.5., B.6., or B.8.~~ above.

~~2. b.~~ Absences which occur on a County holiday.

~~2. Sick-Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.~~

#### D. General Provisions

1. In any use of sick-healthcare leave, an employee's account shall be charged to the nearest quarter hour.

~~2.~~ Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

2-3. Employees hired on or after July 15, 1977 are not eligible for any payoff of sick healthcare leave. Employees hired before July 15, 1977 are eligible for sick healthcare leave payoff under the following conditions:

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 healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused <u>Sick Healthcare</u> 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/healthcare 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/healthcare leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of sick/healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's sick/healthcare 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/healthcare 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. Such request must be made at least thirty (30) 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.~~
- 6.4. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining sick-healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sick-healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sick healthcare days and to accrue additional paid sick-healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

~~For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.~~

B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) regularly scheduled shifts days in any one (1) instance for each death, to arrange for or attend a funeral of a member of their immediate family and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, step-child, grandparent, grandchild or legal guardian.

C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsection 5. and 6., below, shall not apply.
3. An employee who has requested and identified valid need for Family Leave pursuant to Article IV, Section 14, and applicable law, shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, **sick healthcare** leave and annual leave have been used;

- b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, **sick-healthcare** leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

#### Section 4. Official Leave for Non-occupational 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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:

1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
2. Such Leave shall begin after all accrued ~~sick~~ healthcare leave, compensatory time, vacation time and/or annual leave have been applied toward the absence.
3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)

4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County and other competent employees are available to do the employee's usual work.

#### Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
  - 1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of **sick healthcare** leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

#### Section 10. 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 (6) 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, compensatory time 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-Healthcare leave or annual leave must 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 Non-occupational 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- 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 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA promptly reimburses the County for all benefit expenses incurred during the Presidential Leave of Absence.
  5. The employee shall continue to conform to the agency/department rules and regulations that are not inconsistent with Presidential 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, annual leave and sick-healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
- H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

### Section 14. Family Leave

#### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal

Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section “family leave” under this Agreement shall mean leave pursuant to the FMLA and CFRA.,

2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or “next of kin” who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered

by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).

~~8.~~ When a request for Family Leave is approved, the agency/department shall determine whether annual leave, **sickhealthcare**

leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of **sickhealthcare** 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 such case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

#### Section 15. Leave Language Working Group

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V VACATIONSection 1. Accumulation of Vacation Accrual

~~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.~~

- A. ~~During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period. 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-accrual 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 (2,801-20,800 regularly scheduled hours), 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 subsection 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.~~

~~D.~~ The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of ~~full-time~~ continuous County service shall be two hundred forty (240) hours, ~~and or a prorated amount equal to six (6) weeks one hundred twenty hours of vacation for part-time employees.~~ The maximum allowable vacation credit ~~at any one (1) time for a full-time an~~ employee may accrue at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time~~ continuous County service (~~20,80120,800~~ regularly scheduled hours) shall be three hundred twenty (320) hours, ~~and a prorated amount equal to eight (8) weeks one hundred sixty (160) hours of vacation for part-time employees.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

~~A.~~ ~~Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.~~

~~A.~~ ~~B.~~ Not more than eighty (80) hours of paid time may be credited toward ~~accumulation~~ ~~accrual~~ of vacation credit in any pay period.

~~CB.~~ ~~As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,80120,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.~~

~~B.~~ ~~DG.~~ ~~Approved unpaid leaves, including An~~ ~~Non-Medical Discretionary~~ ~~Official~~ Leave of Absence, ~~Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave~~ 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 approved unpaid Leave~~.

~~G.~~ ~~E.~~ 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.~~ ~~F.~~ Additional vacation earned during the period of vacation may be taken consecutively.

~~E.G.~~ In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

~~F.~~H. 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.~~I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.

~~H.~~J. Illness while on paid vacation will be charged to Sick—Healthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.

~~I.~~K. 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.~~L. 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.

G-M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

~~K.~~1. After annual leave has been exhausted, dDuring each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty (20) hours each or one (1) increment of up to forty (40) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

~~L.~~2. After annual leave has been exhausted, dDuring each fiscal year, employees in the classification of Data Entry Technician may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be

made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

~~When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.~~

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. above) some time during the fiscal year unless the employee is able to cash out vacation time.
2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

M.

## ARTICLE VI ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### 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 full-time 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 balance 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.A. ~~Extra help employees shall not earn annual leave.~~

### Section 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

A. Employees will no longer accrue Annual Leave. Instead, employees will accrue SickHealthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.

B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,804-20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

## Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
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. 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.
5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth

in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid sick-healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered sick healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

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

#### 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 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 (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.A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.~~
- ~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~
- ~~G.B. 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.~~
- ~~H. 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 the 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. Payoff of Unused Annual Leave Payoff Provisions

A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:

1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.

2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash-out procedures will be governed by Section 5. A.1, above.

~~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. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~B. During each fiscal year, employees in the classification of Data Entry Technician may request to be paid for accrued annual leave in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~C.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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

D.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.

E.D. An employee who is 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 above.

E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

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ARTICLE VII HOLIDAYSSection 1. Holidays Observed

- A. Except as modified below, County employees shall observe the following holidays:

~~2018 Independence Day, July 4  
 Labor Day, September 3  
 Columbus Day, October 8  
 Veteran's Day, November 12  
 Thanksgiving Day, November 22  
 Day After Thanksgiving, November 23  
 Christmas Day, December 25~~

2019: ~~New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 21  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 18  
 Memorial Day, May 27  
 Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25~~

2020 ~~New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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~~

2021 ~~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 24 (Observed)  
New Year's Day (Observed)

2022 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 26 (Observed)

2023 New Year's Day, January 2 (Observed)  
Martin Luther King, Jr.'s Birthday, January 16  
Lincoln's Birthday, February 12  
Washington's Birthday, February 20  
Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.

- F. 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

F.G. 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.H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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. Boots

A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.

B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## Section 4. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## 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/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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2. above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies – All Disciplinary Actions (Other than Discharge)

~~1.~~ If the arbitrator finds that the disciplinary action was taken for reasonable cause, he or she shall sustain the action.

#### ~~2.1.~~ Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.
2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.
3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 knowledge 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 OCEA 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-healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, sick-healthcare leave and vacation, 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 Chief Human Resources Officer.
  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 **sickhealthcare** leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any **sickhealthcare** leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue **sickhealthcare** leave, annual 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 **sickhealthcare** leave, compensatory time, annual leave and/or vacation expended since the fourth 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 **sickhealthcare** leave, compensatory time, annual leave 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 sickhealthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in paragraph A., 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 sickhealthcare leave, vacation and annual leave 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, sickhealthcare 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

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

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified, and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.

3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse

shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For Employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 14 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund approved by the State of California for the sole purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said State approved trust fund. The County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 14 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage, as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County- offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

B. Retiree Medical Plan Lump Sum; Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a., b., c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall be eligible for a Grant

based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

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

#### E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopening, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

**9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.**

Section 6 Reopener

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the “Cadillac Tax”) on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members’ enrollment in County-sponsored health plans.

<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1. An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2. The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.      The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979, the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
- a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative-ratio based methodology will be used to determine the additional employee contribution toward the "2.7% at 55" retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPR and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.

c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.

d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPR and

**1.62% at 65 Classic benefit formulas shall be eliminated.**

**Section 3. Defined Contribution Retirement Plan**

- A. Beginning on May 7, 2010 the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC Plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPR). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date, t~~The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the DC 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the DC Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

**Section 4. 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 XXII    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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Office Services Unit for classes in effect on June ~~21, 2019~~<sup>21, 2018</sup>. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year. All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
- 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
- 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 20198-2019  
2023 MOU, the salary schedule will be increased by 1.502.50%.
2. Effective January-July 34, 20192020, the salary schedule will be increased by  
1.002.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.50%.

**ARTICLE XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

[Redacted]

## APPENDIX A

Classes included in the Office Services Unit as of June 21<sup>3</sup>, 201<sup>98</sup>:

0805CL Accounting Assistant I  
 0810CL Accounting Assistant II  
 0832CL Accounting Specialist  
 0835CL Accounting Technician  
 0558CL Attorney's Clerk I  
 0559CL Attorney's Clerk II  
 0638CL Board Services Specialist  
 0637CL Board Services Trainee  
 0830CL Cashier  
 0545CL Civil Process Technician  
 0541CL Civil Process Technician Trainee  
 0530CL Customer Relations Assistant  
 0538CL Data Entry Specialist  
 0537CL Data Entry Technician  
 0643CL Election Aide  
 0644CL Election Worker  
 0382CL Estate Administration Specialist I  
 0383CL Estate Administration Specialist II  
 0914CL Estate Inventory Clerk  
 0595CL Executive Secretary I  
 0596CL Executive Secretary II  
 0640CL Lead Board Services Specialist  
 0567CL Legal Secretary  
 0566CL Legal Secretary Trainee  
~~0573CL Legal Services Assistant~~  
~~0850CL Library Clerk~~  
~~2505CL Library Page~~  
0631CL Medical Billing Specialist  
 0633CL Medical Transcriber I  
 0634CL Medical Transcriber II  
 131CL Micrographics Technician I  
 0504CL Office Assistant  
 0536CL Office Specialist  
 0522CL Office Technician  
 0503CL Office Trainee  
 1408CL Park Attendant  
 0505CL Property Tax Technician  
 0579CL Secretary I  
 0578CL Secretary II  
 0580CL Secretary III  
 0581CL Secretary to CAO  
 0815CL Senior Accounting Assistant  
 0639CL Senior Board Services Specialist  
0568CL Senior Legal Secretary  
 0852CL Senior Library Clerk  
 0635CL Senior Medical Billing Specialist  
~~0562CL Stenographer Clerk II~~  
 0905CL Store Clerk  
 0908CL Supplies Clerk, Juvenile Facilities

# MEMORANDUM OF UNDERSTANDING

## SHERIFFS SPECIAL OFFICER UNIT

# 2019 – 2023

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING

2019 - 2023

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

SHERIFFS SPECIAL OFFICER

UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019 sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Sheriffs Special Officer Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 22, 2019.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

EMERGENCY shall mean 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 healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE OR HEALTHCARE LEAVE shall mean and be synonymous with the terms “sick” and/or “sick leave.”

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 PAYSection 1.        Workweek

- A. The official workweek for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
- B. The official FLSA work period for Sheriffs Special Officers shall be 28 days and shall begin at 12 a.m. on each Friday and end at 12 a.m. four weeks later. For purposes of payment of overtime under this MOU, each 28 day period shall be divided into two 14 day periods, with overtime being paid for work ordered and performed in excess of eighty (80) hours actually worked in each 14 day period. Work ordered and performed in excess of eighty (80) hours of paid time in each 14 day period in accordance with an emergency declared by the Board of Supervisors shall be overtime.
- C. The work period for all other employees in FLSA exempt classifications may be established on a pay period basis, starting on a Friday and ending on the second Thursday thereafter. Such employees who occupy full-time positions shall be scheduled to work eighty (80) hours in each work period. Employees shall receive compensation on a biweekly basis.
1. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Work ordered and performed in excess of eighty (80) hours actually worked in a work period shall be overtime. Work ordered and performed in excess of eighty (80) hours of paid time in accordance with an emergency declared by the Board of Supervisors shall be overtime.
  2. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.

3. An employee in this unit may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40) hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the Department.

4. An employee may request to trade his or her biannual, quarterly or monthly shift for another employee's biannual, quarterly or monthly shift provided both employees have the same work assignment and the request is made within two (2) weeks of posting of scheduled shift rotation.

Trades under this provision shall require the written approval of the department.

5. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- D. The County agrees to give employees a fourteen (14) calendar day advance notice of a shift change whenever practicable.
  - E. No employee shall be permitted to work more than sixteen (16) consecutive hours except in an emergency situation.
  - F. The County shall discuss with OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
  - G. 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.
  - H. This Section shall not prevent an employee or group of employees from requesting a modified work schedule. Such requests may be implemented by the Department.
    1. Upon written request by OCEA, 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. OCEA agrees not to request more than three (3) such studies concurrently for the Department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- I. 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 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 work of the apparent need 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.

3. If the responsible supervisor determines that overtime is necessary on a situation already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the Department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) hours may be scheduled off for an employee by his or her 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 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### 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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents 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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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 a 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. Except as provided in 4.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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 forty (40) cents per hour (approximately sixty-nine (69) dollars per month) for all hours actually paid.
  - a. An employee must be assigned by 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 Chief Human Resources Officer.

2. Qualified employees in the unit who, in addition to meeting the criteria in 1.a. and b. above, and when approved by the Division Commander, are certified by the Chief Human Resources Officer as qualified to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties, based on assignment requirements, shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty one (121) dollars per month) for all hours actually paid.
3. An employee shall not be eligible to receive more than one type of bilingual pay concurrently.
4. Bilingual pay shall not apply to workers' compensation supplement pay.
5. 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 Department Head, who will consider it according to:
  - a. Department need;
  - b. availability of a qualified replacement; and
  - c. availability of another suitable assignment for the requesting employee.
6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

F. Training Officer Assignment Pay

Employees in the classification of Sheriffs Special Officer assigned to John Wayne Airport, Security Bureau, Court Operations, all jail facilities or the Training Academy on a regular, full-time basis who are responsible for training new Sheriffs Special Officers shall be paid two dollars (\$2.00) per hour for all hours assigned to perform such training functions.

G. Emergency Communications Training and Certification Pay

1. Employees in the classification of Sheriffs Special Officer I, II who are assigned to receive training as or act in the capacity of a Radio Dispatcher or Communication Coordinator shall receive an additional two dollars and three cents (2.03) per hour for all hours assigned while training or acting in the capacity of a Radio Dispatcher or Communication Coordinator at the Emergency Communications Bureau.

2. If, during the term of the contract, the difference between the step 12 hourly rate of the Radio Dispatcher or Communication Coordinator classification and the step 12 hourly rate of the Sheriffs Special Officer II classification exceeds two dollars and three cents (2.03) per hour, the premium will be adjusted accordingly.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the Department Head and shall be based on merit.
- F. If, in the 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 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.

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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employees

A new or reemployed employee in a part-time regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) 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 section B.2., below.

a. A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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 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 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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 the Department Head or his/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, except as provided in Section E1., 2. and 3. of this Article, below, and an employee who is permitted by the Department to work beyond the end of a probation period shall be deemed to have passed such probation period.
3. An employee who is on probation may not transfer from one Department to another in the same class without the approval of the Chief Human Resources Officer.

E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her Department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the Department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The 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. The 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 Chief Human Resources Officer 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 OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

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

#### Section 10. Training

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

ARTICLE IV      LEAVE PROVISIONS

Section 1.      Healthcare Leave

A.      Healthcare Leave Accrual

1. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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 healthcare 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. Healthcare leave earned shall be added to the employee's healthcare 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. Except as required by law, extra help employees shall not earn healthcare leave.

B.      Permitted Uses of Healthcare Leave

Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.

Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable

2. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild, or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.
3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).
4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare leave.
  - c. The 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 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. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

7. 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.
8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.
9. Up to 8 hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B., above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law, 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 when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare/ 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 healthcare 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 healthcare leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's healthcare 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 healthcare/ 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the department, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates.

Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. .
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

## Section 3. Authorized Leave Without Pay

### A. 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B.6 of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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 Department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory time, vacation and/or annual leave time have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the

duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the Department Head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
  - 1. A statement of the County's intention to implement 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 effective date of such proposed action;
  - 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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her Department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.

- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the Department Head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

#### Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 Non-occupational 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 11. 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 healthcare 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 the employee:
  1. 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. 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. Accepts employment outside the County; or
  4. Accepts employment in another County position; or
  5. Has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. Is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 Department shall not be required to return the employee to work until such notice is given; however, the Department may waive the notice or reduce the notice period at its discretion.

Section 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:

1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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 Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, and healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.

- H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), compensatory time 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.

Section 14. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.

- f. Leave to care for a spouse, registered domestic partner, child, parent, or “next of kin” who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
  4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
  5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
  6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
  7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
  8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

### Section 15. LEAVE LANGUAGE WORKING GROUP

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability

ARTICLE V            VACATION

Section 1.        Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
  
- 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 accrual account only upon completion of each pay period.
  
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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 subsection B., above.
  
- D. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be two hundred forty (240) hours. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be three hundred twenty (320) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

Section 2.        General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Article V., Section 2.C.
  
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.
  
- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years

of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Section 1.C., and D.) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave.
- E. 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., and D.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. Vacation shall be scheduled for employees by the Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to Healthcare Leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- K. 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, , Election Board Officer or Election Night Help.
- L. 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.
- M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

After annual leave has been exhausted, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the Department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D., above) some time during the fiscal year unless the employee is able to cash out vacation time.
2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU.

### Section 1.      Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- A. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

### Section 2.      Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
  1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
  5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or

stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.

- D. 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, Election Board Officer or Election Night Help.
- E. Holidays which fall during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

Section 4. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
  - 1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  - 2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.
- B. An employee separating from County service shall be paid in a lump sum payment for the unused annual leave balance as provided below:

Years of Service

Maximum Payoff

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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.
  
- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII      HOLIDAYSSection 1.      Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2019:

Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020:

New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021:

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 24 (*Observed*)  
 New Year's Day (*Observed*)

2022:

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 26 (*Observed*)

2023: New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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 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.
- F. 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 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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
- F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
- G. 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.
- H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## Section 4. Boots

- A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 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 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 OCEA in a hearing pursuant to this Article.
  - E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
  - F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
  - G. 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.
  - H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same Department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify Department Head of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction ordered by the 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 3, it may be presented to the Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 PROCEDURESection 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 (1) or more functions of one (1) 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 the Department except that:
  - 1. Where a class has a dual or multiple concept, the Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations may authorize a layoff by division or smaller unit of the 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 Department
Second - New Probationary	Determined by Department
Third - Regular/Promotional Probationary	Layoff Points

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 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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 the 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 the 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 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 DEPARTMENTAL REINSTATEMENT LISTS pursuant to Section 7.A.3., below.

Section 7. Reemployment Lists

A. The following persons shall be placed on 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 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 a 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 a 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 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 the 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 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 OCEA 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 healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  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., or Labor Code 4850 et. seq. for the classification of Sheriffs Special Officer.

Section 2.      Exhaustion of 4850 Benefits

When an employee has exhausted all benefits provided by California Labor Code Section 4850, and such employee continues to be unable to return to work due to an injury or disease arising out of and in the course of County employment, the provisions of Section 3. (below), Worker's Compensation Supplement Pay, shall apply.

Section 3.      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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 or 4850 Leave, the employee may, at his or her option, use healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare leave, vacation and annual leave earning rates.
- H. Nothing in this provision shall be construed as waiving any right to greater benefits which may be available pursuant to Labor Code Section 4850.

#### Section 4. 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA designated employee shall be allowed to accompany the inspector while the inspector is in the 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 OCEA 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. Uniforms

The County will provide, but will not launder or dry clean, required uniforms for employees in the following classes:

Sheriffs Special Officer I  
Sheriffs Special Officer II

Section 2. Special Equipment

The County will provide employees in the classes of Sheriffs Special Officer I and II with firearms, batons, handcuffs and leather goods whenever these items are required by the County.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA with a listing of all current employees in this Unit. Such file shall include employee name, job classification, department, timekeeping location, salary range and step. The County shall also provide OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA on Departmental bulletin boards within the Representation Unit provided such use does not interfere with the needs of the 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 the 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 Department response to an employee's request for reclassification includes, but is not limited to, denial of request or forwarding of the request to the Chief Human Resources Officer with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- B. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- A. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- B. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- C. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this

program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.
- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

### Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund; the County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006 who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability

retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

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

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a

requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6. Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (e.g., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which was expected to begin in 2018, but was delayed until 2020. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (e.g., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.

## Section 7. Accidental Death and Dismemberment Insurance

The County shall provide basic accidental death and dismemberment insurance in the amount of one hundred thousand dollars (\$100,000) for all Sheriffs Special Officer employees without proof of insurability. The policy shall provide benefits for death or dismemberment occurring in the line of duty. Such insurance will be subject to the limitations of liability contained in those insurance policies.

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<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For eligible employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
- a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the “Reverse Pickup” and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

### 3. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee’s paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee’s paid reverse pickup.

- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement Section 457(b) Defined Contribution Plan (the “DC plan”) to those employees who are covered by the “1.62% at 65” benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be “new members” within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.
- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the Plan, not to exceed two (2) percent of the employee’s base salary (the “match”). County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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.

### Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Sheriffs Special Officer Unit for classes in effect on June 21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV      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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2.      Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
- 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
- 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.
2. Effective July 3, 2020,, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.50%.

Article XXVIII      DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the Sheriffs Special Officer Unit as of June 21, 2019:

- 6109SO Sheriffs Special Officer I
- 6112SO Sheriffs Special Officer II

**MEMORANDUM  
OF  
UNDERSTANDING**

**SHERIFFS SPECIAL OFFICER  
UNIT**

**20198 – 2023~~19~~**

**COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION**

MEMORANDUM OF UNDERSTANDING

201~~98~~ - 20~~23~~~~19~~

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

SHERIFFS SPECIAL OFFICER

UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on (~~October 22, 2019~~~~July 31, 2018~~) sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Sheriffs Special Officer Unit for the period beginning ~~June 213, 2019~~~~8~~ through ~~June 290, 2023~~~~19~~. Unless otherwise indicated herein, all provisions shall become effective ~~October 22, 2019~~~~June 23, 2018~~.

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

EMERGENCY shall mean 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 **healthcaresick** 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 Chief Human Resources Officer, 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.

HEALTHCARE OR HEALTHCARE LEAVE shall mean and be synonymous with the terms "sick" and/or "sick leave."

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 (1) or more regular or limited-term positions whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.
- B. The official FLSA work period for Sheriffs Special Officers shall be 28 days and shall begin at 12 a.m. on each Friday and end at 12 a.m. four weeks later. For purposes of payment of overtime under this MOU, each 28 day period shall be divided into two 14 day periods, with overtime being paid for work ordered and performed in excess of eighty (80) hours actually worked in each 14 day period. Work ordered and performed in excess of eighty (80) hours of paid time in each 14 day period in accordance with an emergency declared by the Board of Supervisors shall be overtime.
- C. The work period for all other employees in FLSA exempt classifications may be established on a pay period basis, starting on a Friday and ending on the second Thursday thereafter. Such employees who occupy full-time positions shall be scheduled to work eighty (80) hours in each work period. Employees shall receive compensation on a biweekly basis.
1. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Work ordered and performed in excess of eighty (80) hours actually worked in a work period shall be overtime. Work ordered and performed in excess of eighty (80) hours of paid time in accordance with an emergency declared by the Board of Supervisors shall be overtime.
  2. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.

3. An employee in this unit may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40) hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the Department.

4. An employee may request to trade his or her biannual, quarterly or monthly shift for another employee's biannual, quarterly or monthly shift provided both employees have the same work assignment and the request is made within two (2) weeks of posting of scheduled shift rotation.

Trades under this provision shall require the written approval of the department.

5. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.

- D. The County agrees to give employees a fourteen (14) calendar day advance notice of a shift change whenever practicable.
- E. No employee shall be permitted to work more than sixteen (16) consecutive hours except in an emergency situation.
- F. The County shall discuss with OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
- G. 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.
- H. This Section shall not prevent an employee or group of employees from requesting a modified work schedule. Such requests may be implemented by the Department.
  1. Upon written request by OCEA, 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. OCEA agrees not to request more than three (3) such studies concurrently for the Department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- I. 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 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 work of the apparent need 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) in the employee's designated workweek for classifications designated as non-exempt from FLSA or eighty (80) in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.

3. If the responsible supervisor determines that overtime is necessary on a situation already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the Department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of thirty-two (32) hours may be scheduled off for an employee by his or her 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 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

### 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 sixty (60) cents per hour and a maximum of one (1) dollar and fifty (50) cents 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 duty requires the employee so assigned to: (1) 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. Employees paid on a sixteen (16) hour shift basis are exempt from these provisions.
4. 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 a 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. Except as provided in 4.C.3., below, call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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 forty (40) cents per hour (approximately sixty-nine (69) dollars per month) for all hours actually paid.
  - a. An employee must be assigned by 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 Chief Human Resources Officer.

2. Qualified employees in the unit who, in addition to meeting the criteria in 1.a. and b. above, and when approved by the Division Commander, are certified by the Chief Human Resources Officer as qualified to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties, based on assignment requirements, shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty one (121) dollars per month) for all hours actually paid.
3. An employee shall not be eligible to receive more than one type of bilingual pay concurrently.
4. Bilingual pay shall not apply to workers' compensation supplement pay.
5. 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 Department Head, who will consider it according to:
  - a. Department need;
  - b. availability of a qualified replacement; and
  - c. availability of another suitable assignment for the requesting employee.
6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

F. Training Officer Assignment Pay

Employees in the classification of Sheriffs Special Officer assigned to John Wayne Airport, Security Bureau, Court Operations, all jail facilities or the Training Academy on a regular, full-time basis who are responsible for training new Sheriffs Special Officers shall be paid two dollars (\$2.00) per hour for all hours assigned to perform such training functions.

G. Emergency Communications Training and Certification Pay

1. Employees in the classification of Sheriffs Special Officer I, II who are assigned to receive training as or act in the capacity of a Radio Dispatcher or Communication Coordinator shall receive an additional two dollars and three cents (2.03) per hour for all hours assigned while training or acting in the capacity of a Radio Dispatcher or Communication Coordinator at the Emergency Communications Bureau.

2. If, during the term of the contract, the difference between the step 12 hourly rate of the Radio Dispatcher or Communication Coordinator classification and the step 12 hourly rate of the Sheriffs Special Officer II classification exceeds two dollars and three cents (2.03) per hour, the premium will be adjusted accordingly.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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 (Step 12 for employees assigned to Salary Schedule G), and if granted, in what amounts, shall be solely within the discretion of the Department Head and shall be based on merit.
- F. If, in the 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 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.

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 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 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 7. 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 8. 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 Chief Human Resources Officer, 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes in salary resulting from a classification study shall be subject to the provisions of Article XIX.
- 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 10. 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.

#### Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties~~

~~therefore wish to ensure that systematic classification and compensation studies be reinstated.~~ The County ~~therefore~~ agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employees

A new or reemployed employee in a part-time regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) 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 section B.2., below.

a. A full-time employee shall serve a probation period equal to the time period of the initial probation ending with the first day of the pay period 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 or the remainder of any uncompleted new probation period, whichever is longer.

b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day of the pay period following completion of said period except that for promotion to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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 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 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 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 XVIII, 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 limited-term positions, except as provided in Section 4.C., 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 the Department Head or his/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, except as provided in Section E1., 2. and 3. of this Article, below, and an employee who is permitted by the Department to work beyond the end of a probation period shall be deemed to have passed such probation period.
3. An employee who is on probation may not transfer from one Department to another in the same class without the approval of the Chief Human Resources Officer.

E. Extension 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 Chief Human Resources Officer 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. With the mutual agreement of a new probationary employee and his or her Department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the Department shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 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 annual leave, vacation and **healthcaresick** 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 annual leave, vacation and **healthcaresick** leave accrual, 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 section E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The 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. The 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 Chief Human Resources Officer 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 OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

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

#### Section 10. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. HealthcareSick Leave

~~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.~~

#### A. Accumulation of HealthcareSick Leave Accrual

1. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcaresick 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 healthcaresick 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. HealthcareSick leave earned shall be added to the employee's healthcaresick 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. Except as required by law, extra help employees shall not earn healthcaresick leave.

#### B. Permitted Uses of HealthcareSick Leave

~~Employees with annual leave balances must use accrued annual leave prior to use of healthcare leave, until all annual leave has been taken.~~

HealthcareSick leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 14 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.
- ~~2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the Department.~~

~~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.

24. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild, or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

35. Absence from duty ~~because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an~~ employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). ~~Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(e).~~

4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.

56. Illness while on paid vacation will be charged to healthcaresick 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 **healthcaresick** leave.

- c. The 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 Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.

~~7. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.~~

~~68.~~ An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

~~7. 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.~~

~~8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.~~

~~9. Up to 8 hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.~~

#### C. Prohibited Uses of **HealthcareSick** Leave

1. **HealthcareSick** leave shall not be applied to:

~~a1.~~ Absence caused by illness or injury to a member of the employee's family except as provided in B. ~~4., B.5., B.6., or B.8.~~, above.

~~b2.~~ Absences which occur on a County holiday.

~~2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.~~

#### D. General Provisions

1. In any use of **healthcaresick** leave, an employee's account shall be charged to the nearest quarter hour.

2. Except as prohibited by law, 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 when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:

a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcaresick leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare/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 healthcaresick 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 healthcaresick leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of healthcaresick leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's healthcaresick 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 healthcare/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. Such request must be made at least thirty (30) 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.~~

46. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the department, apply the period of previous County continuous service for the purpose of determining healthcaresick leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid healthcaresick days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcaresick days and to accrue additional paid healthcaresick days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.

A.B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) regularly scheduled shifts for each death days in any one (1) instance, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. 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, registered domestic partner, child, stepchild, grandparent, grandchild or legal guardian.

C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 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 subsections 5. and 6., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:

- a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, **healthcaresick** leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, **healthcaresick** leave (to the extent available to the employee for such use) and annual leave have been used
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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 Department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

#### 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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued **healthcaresick** leave, compensatory time, vacation and/or annual leave time have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
  4. **For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an eligible employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.**
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the Department Head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

## Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last

known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:

1. A statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her Department; or 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of **healthcaresick** leave, compensatory time, vacation, annual leave or other paid leave to cover the absences is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the Department Head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

## Section 10. 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 (6) 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, compensatory time 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. **HealthcareSick** leave or annual leave must 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 Non-occupational 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 11. 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 **healthcaresick** 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 the employee:
1. 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. 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. Accepts employment outside the County; or
  4. Accepts employment in another County position; or
  5. Has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. Is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave or 4850 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 Department shall not be required to return the employee to work until such notice is given; however, the Department may waive the notice or reduce the notice period at its discretion.

Section 12. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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 Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, **annual leave** and **healthcaresick** 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsections A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, **healthcare leave (8 hours maximum per fiscal year)**, compensatory time **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.

## Section 14. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time

during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, **healthcaresick** leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of **healthcaresick** 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 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or

registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

**Section 15. LEAVE LANGUAGE WORKING GROUP**

**Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability**

ARTICLE V VACATIONSection 1. Accumulation of Vacation Accrual

~~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.~~

~~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. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.~~

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 accrual/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 (20,800 regularly scheduled hours), 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 subsection 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.~~

**DE.** The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of ~~full-time continuous County 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 ~~an employee may accrue~~ at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time continuous County service (20,800 regularly scheduled hours)~~ shall be three hundred twenty (320) hours ~~and a prorated amount equal to eight (8) weeks of vacation for part-time employees.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

**FA.** ~~Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Article V., Section 2.C.~~

**AB.** Not more than eighty (80) hours of paid time may be credited toward ~~accrual accumulation~~ of vacation credit in any pay period.

**BC.** ~~As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.~~

**CD.** ~~Approved unpaid leaves, including Non-Medical Discretionary, An Official Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Section 1.C., and D.) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave Official Leave.~~

**EC.** 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., and D.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.

**DF.** Additional vacation earned during the period of vacation may be taken consecutively.

**GE.** In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

- HF.** Vacation shall be scheduled for employees by the Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- IG.** No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- JH.** Illness while on paid vacation will be charged to HealthcareSick Leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.
- KI.** 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.
- LJ.** 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.
- M.** When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

- K.** After annual leave has been exhausted, dDuring each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to twenty five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the Department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

- L.** When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the Department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

#### B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D., above) some time during the fiscal year unless the employee is able to cash out vacation time.
2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of eighty (80) hours each fiscal year.

## ARTICLE VI      ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977, ~~and before the implementation of the 2019-2023 MOU. Employees hired prior to July 15, 1977 shall be covered by the Sick Leave and Vacation provisions of this Memorandum of Understanding. Annual leave will consist of the combined sick leave, vacation balances, and accruals for employees covered by the Annual Leave Plan.~~

### ~~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 full-time 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 balance 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 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.

A. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

## Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal ward.
5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy

Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid **healthcaresick** leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered **healthcaresick** leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

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

#### 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 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 (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.~~

**AE.** In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~

**BG.** 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.

~~H. 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 the 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. Payoff of Unused Annual Leave Payoff Provisions

A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:

1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 40 hours of Annual Leave; an additional 40 hours may be requested, with its payout at the discretion of the Department/Agency Head.

2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 80 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.

~~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 five (25) hours each or one (1) increment of up to fifty (50) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

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.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 240

hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.D. Remaining hours, up to the accrual limits specified in Article V, Section 1.D, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 who is 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 above.

E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII HOLIDAYS

Section 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2018: Independence Day, July 4  
 Labor Day, September 3  
 Columbus Day, October 8  
 Veteran's Day, November 12  
 Thanksgiving Day, November 22  
 Day After Thanksgiving, November 23  
 Christmas Day, December 25

2019: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 21  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 18  
 Memorial Day, May 27  
 Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021: 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

	<u>Veteran's Day, November 11</u>
	<u>Thanksgiving Day, November 25</u>
	<u>Day After Thanksgiving, November 26</u>
	<u>Christmas Day, December 24 (Observed)</u>
	<u>New Year's Day (Observed)</u>
<b>2022:</b>	<u>Martin Luther King, Jr.'s Birthday, January 17</u>
	<u>Lincoln's Birthday, February 12</u>
	<u>Washington's Birthday, February 21</u>
	<u>Memorial Day, May 30</u>
	<u>Independence Day, July 4</u>
	<u>Labor Day, September 5</u>
	<u>Columbus Day, October 10</u>
	<u>Veteran's Day, November 11</u>
	<u>Thanksgiving Day, November 24</u>
	<u>Day After Thanksgiving, November 25</u>
	<u>Christmas Day, December 26 (Observed)</u>
<b>2023:</b>	<u>New Year's Day, January 2 (Observed)</u>
	<u>Martin Luther King, Jr.'s Birthday, January 16</u>
	<u>Lincoln's Birthday, February 12</u>
	<u>Washington's Birthday, February 20</u>
	<u>Memorial Day, May 29</u>

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said Courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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 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.
- F. 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 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.** There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

**GF.** 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.

**HG.** 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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 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. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## Section 4. Boots

- A. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- B. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

## 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 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 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 OCEA in a hearing pursuant to this Article.
  - E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
  - F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2., above.
  - G. 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.
  - H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same Department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify Department Head of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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; or
- d. a written reprimand; or
- e. a probationary release alleging discrimination;

it may be appealed in writing to the Chief of Employee Relations within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction ordered by the 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 3, it may be presented to the Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 OCEA?
  - 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 OCEA?
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. Except as otherwise required by law, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 (1) or more functions of one (1) 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 the Department except that:
  - 1. Where a class has a dual or multiple concept, the Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations may authorize a layoff by division or smaller unit of the 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 Department
Second - New Probationary	Determined by Department
Third - Regular/Promotional Probationary	Layoff Points

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 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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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 the 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 the 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 the 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 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 DEPARTMENTAL REINSTATEMENT LISTS pursuant to Section 7.A.3., below.

Section 7. Reemployment Lists

A. The following persons shall be placed on 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 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 a 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 a 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 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 the 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 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 OCEA 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 **healthcaresick** leave credited to the employee's account or any unpaid annual leave 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 annual leave, **healthcaresick** leave and vacation, 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 Chief Human Resources Officer.
  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., or Labor Code 4850 et. seq. for the classification of Sheriffs Special Officer.

Section 2.      Exhaustion of 4850 Benefits

When an employee has exhausted all benefits provided by California Labor Code Section 4850, and such employee continues to be unable to return to work due to an injury or disease arising out of and in the course of County employment, the provisions of Section 3. (below), Worker's Compensation Supplement Pay, shall apply.

Section 3.      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 **healthcaresick** leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any **healthcaresick** leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue **healthcaresick** leave, annual 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 **healthcaresick** leave, compensatory time, annual leave and/or vacation expended since the fourth 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 **healthcaresick** leave, compensatory time, annual leave 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 or 4850 Leave, the employee may, at his or her option, use **healthcaresick** leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 **healthcaresick** leave, vacation and annual leave earning rates.
- H. Nothing in this provision shall be construed as waiving any right to greater benefits which may be available pursuant to Labor Code Section 4850.

#### Section 4. 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, **healthcaresick** leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

#### ~~Section 5. 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA designated employee shall be allowed to accompany the inspector while the inspector is in the 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 OCEA 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. Uniforms

The County will provide, but will not launder or dry clean, required uniforms for employees in the following classes:

Sheriffs Special Officer I  
Sheriffs Special Officer II

Section 2. Special Equipment

The County will provide employees in the classes of Sheriffs Special Officer I and II with firearms, batons, handcuffs and leather goods whenever these items are required by the County.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA with a listing of all current employees in this Unit. Such file shall include employee name, job classification, department, timekeeping location, salary range and step. The County shall also provide OCEA with any other information needed pursuant to Article XX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA on Departmental bulletin boards within the Representation Unit provided such use does not interfere with the needs of the 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA an information copy of the new class specification for any proposed class relevant to this Bargaining Unit. The County agrees to meet and confer with OCEA 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 the 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 Department response to an employee's request for reclassification includes, but is not limited to, denial of request or forwarding of the request to the Chief Human Resources Officer with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- B. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- A. If the study is justified and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- B. If the study is justified, and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- C. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall require repayment of all premiums paid by the County under this

program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.
- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

### Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund; the County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such change, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006 who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of service or actual years of credited County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability

retirement pension under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

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

#### E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.
8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a

requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6. ~~Working Group and~~ Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (e.g., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which was expected to begin in 2018, but was delayed until 2020. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (e.g., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.

## Section 7. Accidental Death and Dismemberment Insurance

The County shall provide basic accidental death and dismemberment insurance in the amount of one hundred thousand dollars (\$100,000) for all Sheriffs Special Officer employees without proof of insurability. The policy shall provide benefits for death or dismemberment occurring in the line of duty. Such insurance will be subject to the limitations of liability contained in those insurance policies.

<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For eligible employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
  - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative-ratio based methodology will be used to determine the additional employee contribution toward the "2.7% at 55" retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPR and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.

- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.
- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date,~~ The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Sheriffs Special Officer Unit for classes in effect on June 21~~3~~<sup>3</sup>, 2019~~8~~<sup>8</sup>. Said classes are listed in Appendix A.

ARTICLE XXIV      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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2.      Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of Agency/Department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

### Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.

- B. 1. Every agency/department shall have an LMC.
- 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
- 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

### Section 3. Time Off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

### Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.
- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.

- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 201~~98-~~~~2023~~~~19~~ MOU, the salary schedule will be increased by ~~2~~4.50%.
2. Effective ~~July 3, 2020~~~~January 4, 2019~~, the salary schedule will be increased by ~~2.50~~~~1.00~~%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.50%.

**Article XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

**Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.**

## APPENDIX A

Classes included in the Sheriffs Special Officer Unit as of June 21~~3~~, 2019~~8~~:

- 6109 **SO** Sheriffs Special Officer I
- 6112 **SO** Sheriffs Special Officer II

# MEMORANDUM OF UNDERSTANDING

SUPERVISORY MANAGEMENT  
UNIT

**2019 – 2023**

COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
THE ORANGE COUNTY EMPLOYEES ASSOCIATION  
FOR THE  
SUPERVISORY MANAGEMENT UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on October 22, 2019, sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Supervisory Management Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 22, 2019.

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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 healthcare 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the term "sick" or "sick leave."

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 BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.

The official work period for Sheriffs Special Officer III shall be 28 days and shall begin at 12 a.m. on each Friday and end at 12 a.m. four weeks later. For purposes of payment of overtime under this MOU, each 28 day period shall be divided into two 14 day periods, with overtime being paid for work ordered and performed in excess of eighty (80) hours actually worked in each 14 day period. Work ordered and performed in excess of eighty (80) hours of paid time in each 14 day period in accordance with an emergency declared by the Board of Supervisors shall be overtime.

1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
3. An employee in the class of Senior Correctional Services Technician may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40)

hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the department.

4. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.
- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
  - E. 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.
  - F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.

4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek in classifications designated as non-exempt from FLSA or eighty (80) for employees in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

### C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.

2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of forty-four (44) 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

cleaning up a work area, putting away tools, personal wash-up and changing clothes.

Section 4. Exclusions from Workweek and Overtime Provisions

Employees in the class of Senior Real Property Agent shall not be subject to the provisions of Sections 1., 2. or 3.

Section 5. Premium Pay

A. Night Shift Differential

1. Except as provided in 7. below, 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. Except as provided in subsections 5. and 6. below, 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. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.
3. Except as provided in 4., 5. and 6., below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one(1) dollar and fifty (50) cents per hour.
4. The rate of night shift differential for employees in the classes listed below shall be one (1) dollar and twenty-five (25) cents per hour:

Supervising Public Health Nurse I  
Supervising Public Health Nurse II

5. An employee in the below listed classes who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one dollar and seventy five (\$1.75) cents per hour for each hour actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Senior Comprehensive Care Nurse

### Supervising Comprehensive Care Nurse

6. An employee in the below listed classes who works an assigned late night shift where the majority of the hours are between 11:00 p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

### Senior Comprehensive Care Nurse Supervising Comprehensive Care Nurse

7. Employees in the classes of Custodian Leadworker and Supervising Custodian I and II shall not be eligible to receive night shift differential premium pay.

#### 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 duty requires the employee so assigned to: (1) 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. 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.

3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.
2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Eligibility Supervisor  
Program Assistant  
Senior Comprehensive Care Nurse  
Senior Defense Investigator

Supervising Family Support Officer  
Supervising Public Health Nurse I  
Supervising Public Health Nurse II

3. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
4. Bilingual pay shall not apply to workers' compensation supplement pay.
5. 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.
6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

E. Jail Salary Supplement

1. An office services supervisor who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, James A. Musick Facility, Theo Lacy Branch Jail, or Warrant Bureau shall, in addition to his or her biweekly salary, be paid an additional seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours.
2. An HCA Service Chief I or II who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, James A. Musick Facility, Theo Lacy Branch Jail, or Warrant Bureau shall, in addition to his or her biweekly salary, be paid an additional seventy-five (75) cents per hour (approximately one-hundred and thirty [130] dollars per month) for all paid hours.

3. An employee in the classification of Craft Supervisor I/Electrical, Mechanical, Craft Supervisor I/Structural and Craft Supervisor II who is permanently assigned to the Central Jail/Intake/Release Center, Theo Lacy Branch Jail or James Musick Facility shall receive, in addition to biweekly salary, an additional seventy-five (75) cents per hour for all hours paid.
4. This salary supplement shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

F. Firefighting Call-Back Pay

Employees in this Representation Unit who are called back to fight fires at a landfill station or in support of wildland fires shall receive seven (7) dollars per call in addition to call-back pay.

G.. Comprehensive Care Nurse Jail Incentive

An employee in any of the below listed classes assigned to work in an adult or juvenile correctional or institutional facility shall, in addition to his or her regular pay, be paid seventy five (75) cents per hour for all hours paid. This incentive shall not apply to worker's compensation supplement pay or be used as a base rate for overtime, other premium pay, etc.

Senior Comprehensive Care Nurse  
Supervising Comprehensive Care Nurse

H. Confined Spaces Pay

1. Supervising Maintenance Inspector/Specialists who are regularly assigned to the Public Works Operations Confined Space Inspection Team shall receive one dollar twenty-five cents (1.25) per hour for those hours actually spent working in confined spaces, as defined in 2., 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.
2. 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 include compartments, ducts, sewers, pipelines, vaults and pits.

I. Emergency Communications Training and Certification Pay

1. Employees in the classification of Sheriffs Special Officer III who are assigned to receive training as or act in the capacity of a Radio Dispatcher or Communication Coordinator shall receive an additional two dollars and three (2.03) cents per hour for all hours assigned while training or acting in the capacity of a Radio Dispatcher or Communication Coordinator at the Emergency Communications Bureau.
2. If, during the term of the contract, the difference between the step 12 hourly rate of the Radio Dispatcher classification and the step 12 hourly rate of the Sheriffs Special Officer II classification exceeds two dollars and three (2.03) cents per hour, the premium will be adjusted accordingly.

#### J. Commercial Driver's License Pay

Employees in the classifications of Equipment Mechanic Leadworker, Supervising Fleet Technician; and Senior Agricultural Standards Inspector who possesses a valid Class A or Class B driver's license shall be eligible to receive an additional sixty (60) cents per hour for all hours actually 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.

#### K. Nurse Retention Incentive

1. Upon completion of approximately 10,400 service hours (approximately five years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 5,200 service hours (approximately five equivalent years of service).
2. Upon completion of approximately 20,800 service hours (approximately ten years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 10,400 service hours (approximately ten equivalent years of service).
3. The Retention Incentive shall be processed within two (2) pay periods of the completion of the required service hours.

4. The Nurse Retention Incentive does not apply to employees who have already achieved the required years of service (service hours) as of the date of adoption of this agreement.

L. Nurse Hiring Incentive

Each employee in a Nurse classification who completes new employee probation shall receive a one-time, lump sum incentive of one thousand (1,000) dollars, within (2) pay periods after completion of new employee probation.

M. Advanced Certification Pay

The following employees shall receive, in addition to their bi-weekly salary, the equivalent of one hundred nineteen (119) dollars a month or approximately fifty-five (55) dollars bi-weekly for receiving an Advanced Appraisal Certificate issued by the State Board of Equalization.

Managing Appraiser  
 Managing Auditor-Appraiser  
 Principal Appraiser  
 Principal Auditor-Appraiser  
 Senior Appraiser  
 Senior Auditor-Appraiser

N. Training Officer Assignment Pay

Employees in the classification of Sheriffs Special Officer III assigned to John Wayne Airport, Security Bureau, Court Operations, all jail facilities or the Training Academy on a regular, full-time basis who are responsible for training new Sheriffs Special Officers shall be paid one dollar (\$1.00) per hour for all hours assigned to perform such training functions.

Additionally, employees in the classification of Senior Correctional Services Technician shall be paid one (1) dollar per hour for all hours assigned to perform training for other Correctional Service Technicians.

O. Toxic Hazard Assignment Pay

Employees on pay status in the classification of Senior Forensic Scientist who are assigned to the Clandestine Lab Section of Forensic Services shall receive one hundred seventy-five (175) dollars per month (approximately \$80.77 per pay period).

P. Automotive Service Excellence (ASE) Certification Pay

1. Employees in the classification of Equipment Mechanic Leadworker or Supervising Fleet Technician who possess and maintain four to seven

valid ASE Certifications shall receive an additional fifty-five cents (\$.55) per hour for all hours worked; this may not be combined with 2. below.

2. Employees in the classification of Equipment Mechanic Leadworker or Supervising Fleet Technician who possess and maintain eight or more valid ASE Certifications shall receive an additional seventy-five cents (\$.75) per hour for all hours worked; this may not be combined with 1. above.
3. There shall not be any duplicating or pyramiding of rates paid under this Section. Therefore, employees who are eligible to receive one of the ASE Certification Pays listed in items 1 and 2 above may not receive both in the same pay period.

Q. Professional Land Surveyor License Pay

Employees in the classification of Surveyor III who possess and maintain a Professional Land Surveyor License issued by the State of California shall qualify to receive an additional one dollar and fifty cents (\$1.50) per hour for all hours worked, if any of the following criteria are met:

1. Agency/department management will determine which assignment(s) will qualify to receive this pay.
2. Employees must be assigned to a position that utilizes the Professional Land Surveyor License.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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.

- 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
- 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 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 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 7. 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 8. 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 Chief Human Resources Officer 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes 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 10. 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.

#### Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

The County agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day or 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 section B.2., below.
  - a. A full-time employee shall serve a probation period of fifty-two (52) weeks ending with the first day of the pay period following completion of said period. However, an employee who promotes from a class in the Supervisory Management Unit 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 or the remainder of any uncompleted new probation period, whichever is longer.
  - b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime ending with the first day of the pay period following completion of said period except that for promotion from a class in the Supervisory Management Unit to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 limited-term positions, except as provided in Section 4.C., 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, except as provided in E.1, 2. And 3. of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

E. Extension 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department

shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

3. The Chief Human Resources Officer 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.

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and healthcare 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 annual leave, vacation and healthcare leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

- A. The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.
- B. The County shall provide reasonable reimbursement for meals for employees in field assignments who are required by their supervisor to take their meal period while in custodial charge of a client.
- C. 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 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Healthcare Leave

#### A. Healthcare Leave Accrual

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. During the first three (3) years of employment, an employee shall earn .0347 hours of healthcare 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).
3. 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 healthcare 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).
4. Healthcare leave earned shall be added to the employee's healthcare 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.
5. Except as provided by law, extra help employees shall not earn healthcare leave.

#### B. Permitted Uses of Healthcare Leave

Employees with annual leave balances must use accrued annual leave prior to use of sick leave, until all annual leave has been taken.

Healthcare leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the Department in advance to attend medical and dental appointments whenever practicable.

2. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.
3. Absence from duty because an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a).
4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.
5. Illness while on paid vacation will be charged to healthcare 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 healthcare 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. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

7. 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.
8. Absence from duty because of personal business not to exceed forty (40) working hours during the fiscal year.
9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.

C. Prohibited Uses of Healthcare Leave

1. Healthcare leave shall not be applied to:
  - a. Absence caused by illness or injury to a member of the employee's family except as provided in B above.
  - b. Absences which occur on a County holiday.
2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.

D. General Provisions

1. In any use of healthcare leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:
  - a. Upon paid retirement or death, an employee or the employee's estate shall be paid for a portion of the employee's unused healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare 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 healthcare 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 healthcare leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of healthcare leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's healthcare 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 healthcare 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. Such request must be made at least thirty (30) 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. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining healthcare leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously

accrued and unused paid healthcare days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid healthcare days and to accrue additional paid healthcare days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed five (5) regularly scheduled shifts for each death, and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. .
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional timeoff shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

## 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 year at the discretion of the agency/department except that request for an 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 subsections 4. and 5., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, healthcare leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections B.4, B.5 or B.6 of this Article – after all accumulated compensatory time, vacation, healthcare leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

#### 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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued healthcare leave, compensatory, vacation and/or annual leave time have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)

- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.

- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
  1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of healthcare leave, compensatory time, vacation, annual leave or other paid leave to cover the absence is appropriate.

- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

#### Section 10. 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 (6) 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, compensatory time 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. Healthcare leave or annual leave must 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 Non-occupational 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave and/or 4850 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 12. Leave for Attendance at Professional Conferences

- A. Employees may request five (5) working days leave with pay each fiscal year for attendance at professional conferences subject to the following conditions:
1. A request is made in advance on the appropriate Request to Attend a Conference form.

2. The conference is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
  3. The employee pays all costs connected with the conference attendance, including registration, meals, transportation and/or lodging, if any.
  4. The conference or professional study is located in the United States.
  5. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.).
  6. The employee's workload is current and his or her performance "meets" or "exceeds" performance objectives.
- B. Attendance at conferences by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for additional leave for attendance at a professional conference in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.
- E. Attendance at conferences outside of the United States will require approval of a department head.

Section 13. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.

3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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, annual leave and healthcare 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsection A.1. through A.8., above, shall be suspended during said emergency recall.
- H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 15. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical condition..
  - b. The birth of a child, and in order to care for the newborn child within one year of birth.
  - c. Placement of a child for adoption or foster care within one year of placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the

beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.

3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, healthcare leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of healthcare 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent spouse or registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 16. LEAVE LANGUAGE WORKING GROUP

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V        VACATIONSection 1.        Vacation Accrual

- A. During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period.
- 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 accrual account only upon completion of each pay period.
- C. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time County service (20,800 regularly scheduled hours), 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) per year), under the same terms and conditions as under subsection B., above.
- D. The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with less than ten (10) years of continuous County service shall be three hundred twenty (320) hours.

The maximum allowable vacation credit an employee may accrue at any one (1) time for employees with ten (10) or more years of continuous County service (20,800 regularly scheduled hours) shall be four hundred (400) hours . An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

- E. Employees in the class of Senior Real Property Agent shall earn an additional .0193 hours of vacation for each hour of pay during the regularly scheduled workweek, but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such additional credit shall be applied to vacation accrual account only upon completion of each pay period. The maximum allowable vacation credit at any one (1) time for employees with less than ten (10) years of continuous County service shall be three hundred twenty (320) hours. The maximum allowable vacation credit at any one (1) time for employees with ten (10) or more years of continuous County service

(20,800 regularly scheduled hours) shall be four hundred (400) hours. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

Section 2. General Provisions

- A. Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.
- B. Not more than eighty (80) hours of paid time may be credited toward accrual of vacation credit in any pay period.
- C. As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- D. Approved unpaid leaves, including Non-Medical Discretionary Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Sections 1.C. and E. ) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave.
- E. 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, Sections 1.C. and E.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- F. Additional vacation earned during the period of vacation may be taken consecutively.
- G. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- H. 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.
- I. No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.
- J. Illness while on paid vacation will be charged to healthcare leave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.

- K. 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 Suppression Volunteer, Election Board Officer or Election Night Help.
- L. 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.
- M. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

#### A. Vacation Cash Out Where Employee Has No Annual Leave Balances

1. After annual leave has been exhausted, except as provided in 3.A.2. below, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to thirty (30) hours each or one (1) increment of up to sixty (60) hours. Such payment shall be made upon request unless the agency/ department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment of vacation remain unchanged.
2. After annual leave has been exhausted, during each fiscal year, an employee in the class of Senior Real Property Agent may request to be paid for accrued vacation in either two (2) separate increments of up to forty (40) hours each or one (1) increment of up to eighty (80) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible.
3. After annual leave has been exhausted, during each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to thirty five (35) hours each or one (1) increment of up to seventy (70) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Supervising Radio Dispatcher  
Senior Correctional Farm Supervisor

Senior Correctional Services Technician  
Sheriffs Special Officer III  
Senior Sheriffs Community Services Officer  
Supervising Animal Control Officer

B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. and 1.E, above) some time during the fiscal year unless the employee is able to cash out vacation time.
2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of one hundred twenty (120) hours each fiscal year.

ARTICLE VI      ANNUAL LEAVE PLAN PROVISIONS

The Annual Leave provisions shall apply to regular and limited term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU..

Section 1.      Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A.      Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- B.      Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C.      During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

Section 2.      Use of Annual Leave for Illness or Injury

- A.      Annual Leave may be applied to:
  - 1.      An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  - 2.      Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  - 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. 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.

5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.

- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.
- D. 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.

#### Section 4. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. 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.

#### Section 5. Annual Leave Payoff Provisions

- A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:
  1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 60 hours of Annual Leave; an additional 60 hours may be requested, with its payout at the discretion of the Department/Agency Head.
  2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 120 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.
- B. An employee separating from County service shall be paid in a lump sum payment from the unused annual leave balances as provided below:

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	240 hours maximum paid at 100%

3 but less than 10 years	320 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 400 hours are paid at 100%; the remaining balance after the 400 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 after deducted from the 1600 hours maximum.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 400 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Sections 1.D. and E. Remaining hours, up to the accrual limits specified in Article V, Sections 1.D. and E., will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

- 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 above.
- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII     HOLIDAYSSection 1.     Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2019:

Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020

New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021

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 24 (*Observed*)  
 New Year's Day (*Observed*)

2022

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 26 (*Observed*)

2023      New Year's Day, January 2 (*Observed*)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday, holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.
- F. 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 in Article VII, Section 1.A 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 on the holiday.
- B. On each of the holidays designated in Article VII, Section 1, a 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 on the holiday.
- 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 B.1. or 2. of this Section, compensatory time for each hour worked to a maximum of eight (8) hours.
- E. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
  - F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation or annual leave balance.
  - G. 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.
  - H. 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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. Employees as designated below who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of six-hundred and twenty five (625) dollars per fiscal year. Eligible employees shall include employees in the following classes:

Automotive Mechanic Leadworker  
Equipment Mechanic Leadworker

- B. Persons employed as Senior Communications Technician - Supervisory who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred (400) dollars per fiscal year.
- C. Persons employed as Senior Equipment Welder who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred twenty-five (425) dollars per fiscal year.
- D. 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 fifty (50) dollars will be applied to each employee's loss. The payment of claims under such coverage shall not be appealable under the grievance procedure.
- E. 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 fifty (50) dollar cash refund in consideration of the fifty (50) dollar deductible. If replacement tools have not been secured, the employee shall return all reimbursement funds received from the County.

## Section 4. Calculator Allowance

- A. The County shall pay a ten (10) dollar annual calculator allowance to Eligibility Supervisors who do not otherwise have access to a County provided

calculator. Said allowance shall be paid to Eligibility Supervisors who furnish a calculator for use in performing their duties subject to the following conditions:

1. Eligible employees must submit a claim on or before August 31 of each year on a form provided by the County for that purpose.
  2. The County shall not be held liable for the purchase, replacement, maintenance or repair of any calculators, batteries or other appurtenances furnished by the employee pursuant to this provision.
- B. The annual calculator allowance shall be payable in September of each year during the term of this Memorandum of Understanding.

Section 5. Boots

- A. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty (150) dollars per fiscal year.

Landfill Operations Supervisor I  
 Landfill Operations Supervisor II  
 Landfill Operations Superintendent  
 Senior Building Inspector  
 Supervising Animal Control Officer  
 Supervising Building Inspector

- B. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to one hundred and fifty (150) dollars per fiscal year.

Supervising Construction Inspector  
 Principal Construction Inspector  
 Park Maintenance Supervisor I,II  
 Maintenance Crew Supervisor I,II,III,IV  
 Public Works Maintenance Supervisor I  
 Public Works Maintenance Supervisor I/Vegetation  
 Senior Integrated Pest Management Technician

- C. Employees in the below listed classes that are regularly assigned field assignments and who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty (150) dollars per fiscal year.

Craft Supervisor I, II  
 Senior Land Surveyor  
 Senior Engineering Technician

Supervising Engineering Technician I, II, III  
Supervising Maintenance  
Inspector Specialist  
Surveyor III

- D. Employees of the Orange County Public Works Dept. (OCPW) in the below listed classes that are regularly assigned field or wilderness assignments and who are required to furnish their own safety work boots shall be eligible for reimbursement up to a maximum of \$150 per fiscal year:

Senior Environmental Resources Specialist  
Senior Agricultural Standards Inspector  
Senior Civil Engineer (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)

- E. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.
- F. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

Section 6. Educational and Professional Reimbursement

- A. Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2, above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 XVII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and OCEA?
  - 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 OCEA?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no violation of Article XVII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds a violation of Article XVII, 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 XVII, 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. Except as otherwise required by law, 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 XVII, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations within seven (7) calendar days from the date a decision was rendered at Step 2. A request for mediation will automatically suspend to 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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.
- 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 OCEA 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 healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, healthcare leave and vacation, 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 Chief Human Resources Officer.
  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., or California Labor Code 4850 for employees in the classification of Sheriffs Special Officer III. Upon exhaustion of 4850 Benefits, the following Workers' Compensation Supplement Pay provision shall apply.

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 healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue healthcare leave, annual 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 healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 healthcare leave, compensatory time, annual leave 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 healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 healthcare leave, vacation and annual leave 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, healthcare leave, compensatory time, annual leave and/or vacation may be used, at the employee's option, in that order.

## 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Industrial Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

A. The County will provide uniforms for regular employees in the following assignments:

1. Resources and Development Management Department

Custodial Services Supervisor  
 Custodian Leadworker  
 Equipment Mechanic Leadworker  
 Maintenance Crew Supervisor I, II  
 Maintenance Crew Lead I, II  
 Supervising Custodian I and II  
 Supervising Fleet Technician  
 Weed Abatement Supervisor

2. Sheriff - Coroner Department

Head Cook  
 Senior Head Cook

B. 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.

C. The parties will establish a working group to review the issue of required uniforms for certain employees in the Orange County Public Works Department (OCPW). The working group will commence its work within 45 days of the adoption of the MOU with a goal of concluding the review within 90 days thereafter.

### Section 2. Special Equipment

The County will provide employees in the class of Sheriff Special Officer III with firearms, batons, handcuffs and leather goods whenever these items are required by the County.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XIX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified, and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article, or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee's premium or fifty (50) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee's eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee's eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
  5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- A. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall

require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- B. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- C. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund; the County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such changes, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

A. Retiree Medical Plan Lump Sum; Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of credited service or actual years of County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension

- under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.
- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

D. Survivor Benefits

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

E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.

8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.
9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6. Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.

## Section 7. Physical Examination

The County will provide voluntary annual physical examinations by a County-designated physician at no cost to the employee.

## Section 8. Accidental Death and Dismemberment Insurance

The County shall provide a one hundred thousand dollar (\$100,000) Accidental Death and Dismemberment policy for death or dismemberment for employees in the classification of Sheriffs Special Officer III. Such insurance will be subject to the limitations of liability contained in those insurance policies.

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<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
  - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
  - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
  - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
  - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions pursuant to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 20 year period set forth above.

### 3. Reduction in Reverse Pickup

- a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPRA and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.
- b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.
- c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.
- d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's

paid reverse pickup.

- e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPRA and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPRA). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.
- B. The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the Plan, not to exceed two (2) percent of the employee's base salary (the "match"). County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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.

### Section 4. 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 XXII 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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Supervisory Management Unit for classes in effect on June 21, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  1. Every agency/department shall have an LMC.
  2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this 2019-2023 MOU, the salary schedule will be increased by 2.50%.
2. Effective July 3, 2020, the salary schedule will be increased by 2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

Article XXVIII      DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE

Section 1.    Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.

## APPENDIX A

Classes included in the Supervisory Management Unit as of June 21, 2019:

0821SM Accounting Office Supervisor I  
0822SM Accounting Office Supervisor II  
3549SM Airport Maintenance Superintendent  
3553SM Airport Maintenance Supervisor  
5503SM Airport Operations Supervisor  
1793SM Chief Cadastral Technician  
1640SM Chief Cook  
5915SM Chief of Animal Services Operations  
5154SM Chief of Veterinary Services  
4522SM Chief Pharmacist  
0549SM Civil Process Supervisor  
2552SM Community Relations Coordinator - Library  
2755SM Correctional Programs Supervisor I  
2754SM Correctional Programs Supervisor II  
3182SM Craft Supervisor I/Electrical, Mechanical  
3180SM Craft Supervisor I/Structural  
3183SM Craft Supervisor II  
1455SM Custodial Services Supervisor  
1446SM Custodian Leadworker  
7933SM Database and Security Administrator  
0486SM Data Entry Supervisor I  
0487SM Data Entry Supervisor II  
0489SM Data Entry Supervisor III  
4587SM Dental Officer  
0650SM Election Section Supervisor  
7004SM Eligibility Supervisor  
3325SM Equipment Mechanic Leadworker  
3192SM Facilities Contract Services Supervisor  
0841SM General Ledger Accounting Supervisor  
1757SM Geographic Information Systems (GIS) Supervisor  
7117SM HCA Program Supervisor I  
7118SM HCA Program Supervisor II  
7130SM HCA Service Chief I  
7131SM HCA Service Chief II  
1635SM Head Cook  
2154SM Housing Supervisor  
7952SM IT Supervisor  
3531SM Landfill Operations Superintendent  
3528SM Landfill Operations Supervisor I  
3529SM Landfill Operations Supervisor II  
0585SM Law Office Supervisor  
2403SM Librarian I  
2404SM Librarian II  
2405SM Librarian III

2406SM Librarian IV  
3554SM Maintenance Crew Supervisor I  
3555SM Maintenance Crew Supervisor II  
3557SM Maintenance Crew Supervisor III  
3556SM Maintenance Crew Supervisor IV  
3346SM Maintenance Supervisor, Harbor  
0246SM Managing Appraiser  
0603SM Managing Assessment Technician  
7870SM Managing Auditor-Appraiser  
9031SM Medical Procurement Supervisor I  
9033SM Medical Procurement Supervisor II  
7112SM Mental Health Service Coordinator  
4719SM Nutrition Clinic Supervisor  
0528SM Office Manager  
0512SM Office Supervisor A  
0514SM Office Supervisor B  
0521SM Office Supervisor C  
0523SM Office Supervisor D  
3032SM Park Maintenance Supervisor I  
3038SM Park Maintenance Supervisor II  
7010SM Program Assistant, SSA  
4723SM Public Health Nutritionist I (Supervisory)  
3570SM Public Works Maintenance Supervisor I  
3569SM Public Works Maintenance Supervisor I, Vegetation  
1120SM Publishing Services Supervisor  
9115SM Retirement Administrative Services Supervisor  
0864SM Retirement Benefits Program Supervisor  
0827SM Retirement Benefits Supervisor  
7810SM Senior Accountant/Auditor I  
0823SM Senior Accounting Office Supervisor I  
0824SM Senior Accounting Office Supervisor II  
5020SM Senior Agricultural/Standards Inspector  
0242SM Senior Appraiser  
0601SM Senior Assessment Technician  
7864SM Senior Auditor-Appraiser  
5325SM Senior Building Inspector  
1819SM Senior Civil Engineer  
0554SM Senior Civil Process Supervisor  
3382SM Senior Communications Technician  
4165SM Senior Comprehensive Care Nurse  
7993SM Senior Computer Forensic Examiner  
7455SM Senior Correctional Farm Supervisor  
7453SM Senior Correctional Services Technician  
6517SM Senior Defense Investigator  
1860SM Senior Engineering Geologist  
1821SM Senior Environmental Resources Specialist  
8367SM Senior Epidemiologist  
3154SM Senior Equipment Welder

3924SM Senior Forensic Assistant  
3937SM Senior Forensic Scientist  
1638SM Senior Head Cook  
2153SM Senior Housing Specialist  
7977SM Senior Information Technologist  
7991SM Senior IT Applications Developer  
7988SM Senior IT Business Analyst  
7981SM Senior IT Database Administrator  
7963SM Senior IT Network Engineer  
7985SM Senior IT Security Administrator  
7967SM Senior IT Systems Engineer  
3807SM Senior Laboratory Assistant  
0586SM Senior Law Office Supervisor  
1719SM Senior Land Surveyor  
7454SM Senior Legal Property Technician  
0524SM Senior Office Supervisor (A/B)  
0526SM Senior Office Supervisor (C/D)  
3026SM Senior Parks Animal Keeper  
2116SM Senior Planner  
1843SM Senior Professional Engineer/Architect  
1937SM Senior Project Manager  
0330SM Senior Real Property Agent  
8372SM Senior Research Analyst  
6123SM Senior Sheriff's Community Services Officer  
7068SM Senior Social Services Supervisor  
7093SM Senior Staff Development Specialist  
0927SM Senior Storekeeper  
1893SM Senior Telecommunications Engineer  
3560SM  
3560SM Senior Integrated Pest Management Technician  
0496SM Sheriff's Records Supervisor  
6114SM Sheriff's Special Officer III  
3351SM Sheriff's Supervising Helicopter Mechanic-Inspector  
7020SM Social Services Supervisor I  
7021SM Social Services Supervisor II  
0844SM SSA Accounting Unit Supervisor  
0921SM Storekeeper I  
0925SM Storekeeper II  
5906SM Supervising Animal Care Attendant  
  
5913SM Supervising Animal Control Officer  
5918SM Supervising Animal Control Services Representative  
5328SM Supervising Building Inspector  
1790SM Supervising Cadastral Technician  
6522SM Supervising Child Support Specialist  
0362SM Supervising Collection Officer  
3377SM Supervising Communications Coordinator  
3386SM Supervising Communications Technician

4169SM Supervising Comprehensive Care Nurse  
5362SM Supervising Construction Inspector  
1448SM Supervising Custodian I  
1450SM Supervising Custodian II  
0370SM Supervising Deputy Public Administrator  
0374SM Supervising Deputy Public Guardian  
1725SM Supervising Engineering Technician I  
1730SM Supervising Engineering Technician II  
1734SM Supervising Engineering Technician III  
5119SM Supervising Environmental Health Specialist  
0384SM Supervising Estate Administration Specialist  
1421SM Supervising Fee Station Attendant  
3303SM Supervising Fleet Technician  
3959SM Supervising Forensic Specialist  
5143SM Supervising Hazardous Materials Specialist  
3589SM Supervising Maintenance Inspector/Specialist  
3394SM Supervising Plant Operating Engineer  
9111SM Supervising Procurement Contract Specialist  
3890SM Supervising Public Health Microbiologist  
4188SM Supervising Public Health Nurse I  
4189SM Supervising Public Health Nurse II  
4725SM Supervising Public Health Nutritionist  
0696SM Supervising Radio Dispatcher  
0518SM Supervising Recordable Documents Examiner  
4320SM Supervising Therapist, California Children Services  
7215SM Supervising Veterans Claims Representative  
8389SM Supervising Waste Inspector  
3927SM Supervisor, Forensic Operations  
0907SM Supplies Assistant, Juvenile Facilities  
1718SM Surveyor III  
4338SM Therapy Consultant, California Children Services  
3028SM Zoo Curator

# MEMORANDUM OF UNDERSTANDING

## SUPERVISORY MANAGEMENT UNIT

~~2018-2019~~ –  
~~2019-2023~~

COUNTY OF ORANGE  
AND

# THE ORANGE COUNTY EMPLOYEES ASSOCIATION

## MEMORANDUM OF UNDERSTANDING

~~2018-2019~~ - ~~2019~~2023

COUNTY OF ORANGE

AND

THE ORANGE COUNTY EMPLOYEES ASSOCIATION

FOR THE

SUPERVISORY MANAGEMENT UNIT

This Memorandum of Understanding adopted by the Board of Supervisors on ~~July 31, 2018~~October 22, 2019, sets forth the terms of agreement reached between the County of Orange and the Orange County Employees Association as the Exclusively Recognized Employee Organization for the Supervisory Management Unit for the period beginning June ~~23~~21, 2018-2019 through June ~~2029, 2019~~2023. Unless otherwise indicated herein, all provisions shall become effective ~~June 23~~October 22, 20182019.

|

## 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.

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

CHIEF OF EMPLOYEE RELATIONS shall mean the Chief of Employee Relations, or his or her designee.

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.

DISABILITY RETIREMENT shall mean a service or non-service connected disability retirement pension under the Orange County Employees Retirement System.

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 **sickhealthcare** 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 Chief Human Resources Officer, 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.

HEALTHCARE or HEALTHCARE LEAVE shall mean and be synonymous with the term "sick" or "sick leave."

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 BUSINESS shall mean a foreseeable personal event or circumstance which necessitates the employee's absence from County duty. Personal Business leave must be requested in advance by the employee and be preapproved by supervision or management.

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 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 (1) 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 Chief Human Resources Officer.

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 for full-time employees in classifications designated as non-exempt from FLSA shall be forty (40) hours. The workweek shall begin on each Friday at 12:01 a.m. and end with the following Thursday at 12:00 midnight except for employees working an alternate schedule, such as a 9/80. For these employees the beginning and end of the workweek shall be the mid-point of their eight (8) hour day. However, for employees on an alternate schedule that does not meet the parameters described above, a different workweek may be designated. Work ordered and performed in excess of forty (40) hours actually worked in a workweek, or eighty (80) hours worked in the pay period for employees in FLSA exempt classifications, shall be overtime. Work ordered and performed in excess of forty (40) hours of paid time in a workweek, or eighty (80) hours of paid time in the pay period for employees in FLSA exempt classifications, in accordance with an emergency declared by the Board of Supervisors, activation of the County's Emergency Operations Center (EOC) or agency Department Operations Center (DOC), shall be overtime.

The official work period for Sheriffs Special Officer III shall be 28 days and shall begin at 12 a.m. on each Friday and end at 12 a.m. four weeks later. For purposes of payment of overtime under this MOU, each 28 day period shall be divided into two 14 day periods, with overtime being paid for work ordered and performed in excess of eighty (80) hours actually worked in each 14 day period. Work ordered and performed in excess of eighty (80) hours of paid time in each 14 day period in accordance with an emergency declared by the Board of Supervisors shall be overtime.

1. Employees shall receive compensation on a biweekly basis. The pay period for employees in specified agencies, departments or divisions shall start on a Friday and end on the second Thursday thereafter.
2. Work shall not be regularly scheduled on more than ten (10) calendar days during any pay period and scheduled days off shall fall on at least two (2) consecutive calendar days. Alternate work schedules shall not be implemented without the County and OCEA first negotiating and attempting to reach agreement on such hours of work for each division or work unit in each agency or department proposing implementation of such alternate work schedules.
3. An employee in the class of Senior Correctional Services Technician may request to trade his or her days of work for another employee's days of work provided both employees work in the same division, have the same classification and the days traded are within the same pay period. Should, as a direct result of such trades, either employee work more than forty (40) hours in a workweek, the hours in excess of forty (40)

hours shall not be considered overtime. Except, all overtime work ordered and performed which would have been performed regardless of such trade shall be treated in accordance with Section 1.A., above.

Trades under this provision shall require the written approval of the department.

4. For purposes of MOU overtime, all classifications assigned to custody operations or field operations in the Sheriff's Department shall have the same starting point and ending point of the seven-day workweek.

- 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 OCEA 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 OCEA at least fourteen (14) calendar days before such changes are put into effect.
- E. 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.
- F. 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 OCEA, 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. OCEA agrees not to request more than twelve (12) such studies concurrently for the combined units represented by OCEA and no more than three (3) concurrently for each agency/department.
  4. The County agrees to discuss with OCEA any findings and recommendations prior to reaching a final decision and implementation.
- G. 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 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) in the employee's designated workweek in classifications designated as non-exempt from FLSA or eighty (80) for employees in FLSA exempt classifications, the employee shall be compensated for these excess hours at the overtime rate as defined by Section 2.C.1.

### B. Distribution of Overtime

1. The County shall make a reasonable effort to make overtime opportunities available on an equal basis to employees capable of performing the work.
2. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
3. If the responsible supervisor determines that overtime is necessary on a client case or patient case already assigned to a particular employee, any such overtime may be assigned exclusively to that employee.
4. The County and OCEA may meet and confer and, in so doing shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units. Such provisions shall be consistent with Sections 2.B.2. and 3., above.

### C. Payment for Overtime

1. Except as provided in 2.C.3., below, overtime shall be compensated at one and one-half (1 1/2) times the regular rate.
2. Except as provided in 2.C.3., below, for all regular, limited-term and probationary employees, overtime may be converted to compensatory time or paid for at the option of the agency/department. Consideration shall be given to effectuating the wishes of employees. The maximum number of CTO hours which may be accrued by any employee is eighty (80). If an employee accrues 80 hours of CTO, he/she cannot accrue additional CTO until he/she uses some of the hours in his/her bank; instead, employees will be paid for all overtime work performed in excess of that amount.
3. Overtime hours worked by extra help employees shall be paid.
4. Compensatory time earned and accrued by an employee in excess of forty-four (44) 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 cleaning up a work area, putting away tools, personal wash-up and changing clothes.

Section 4. Exclusions from Workweek and Overtime Provisions

Employees in the class of Senior Real Property Agent shall not be subject to the provisions of Sections 1., 2. or 3.

Section 5. Premium Pay

A. Night Shift Differential

1. Except as provided in 7. below, 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. Except as provided in subsections 5. and 6. below, 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. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.
3. Except as provided in 4., 5. and 6., below, the rate of night shift differential shall be five (5) percent of the employee's basic hourly rate with a minimum of sixty (60) cents per hour and a maximum of one(1) dollar and fifty (50) cents per hour.
4. The rate of night shift differential for employees in the classes listed below shall be one (1) dollar and twenty-five (25) cents per hour:
  - Supervising Public Health Nurse I
  - Supervising Public Health Nurse II
5. An employee in the below listed classes who works an assigned night shift where the majority of the hours are between 5:00 p.m. to 11:00 p.m. shall, in addition to his/her regular pay, be paid a night shift differential of one dollar and seventy five (\$1.75) cents per hour for each hour actually worked on the assigned night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Senior Comprehensive Care Nurse  
Supervising Comprehensive Care Nurse

6. An employee in the below listed classes who works an assigned late night shift where the majority of the hours are between 11:00 p.m. to 7:00 a.m. shall, in addition to his or her regular pay, be paid a late night shift differential of two dollars and seventy five (\$2.75) cents per hour for each hour actually worked on the assigned late night shift. Hours worked as an extension of an assigned shift eligible for Night Shift Differential shall be paid at the same Night Shift Differential rate as the assigned shift. Hours worked as an extension of an assigned shift not eligible for Night Shift Differential shall not be eligible for Night Shift Differential.

Senior Comprehensive Care Nurse  
Supervising Comprehensive Care Nurse

7. Employees in the classes of Custodian Leadworker and Supervising Custodian I and II shall not be eligible to receive night shift differential premium pay.

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 duty requires the employee so assigned to: (1) 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. 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. Call-back shall be paid at one and one-half (1 1/2) times the regular rate.
3. There shall not be any duplication or pyramiding of rates paid under this Section.
4. 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.
5. An employee credited with four (4) hours pursuant to this Section may be assigned other work until the guaranteed time has elapsed.
6. 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. Except as provided in 2. below, qualified employees who meet the following criteria shall receive an additional forty (40) cents per hour (approximately sixty-nine [69] 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 Chief Human Resources Officer.

2. Exceptional Bilingual Pay

Qualified employees in the following classes who, in addition to meeting the criteria in 1.a., b. and c. above, are assigned by agency/department management to perform exceptional bilingual duties that are essential to

the performance of their professional and/or technical duties and responsibilities shall receive an additional seventy (70) cents per hour (approximately one hundred and twenty-one (121) dollars per month) for all hours actually paid:

Eligibility Supervisor  
 Program Assistant  
~~Senior Communicable Disease Investigator~~  
 Senior Comprehensive Care Nurse  
 Senior Defense Investigator  
 Supervising Family Support Officer  
 Supervising Public Health Nurse I  
 Supervising Public Health Nurse II

3. An employee shall not be eligible to receive more than one (1) type of bilingual pay concurrently.
4. Bilingual pay shall not apply to workers' compensation supplement pay.
5. 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.
6. Upon the agreement of the County and OCEA, negotiations shall be reopened for the sole purpose of considering the addition or deletion of classes eligible for exceptional bilingual pay.

#### E. Jail Salary Supplement

1. An office services supervisor ~~or HCA Service Chief I or II~~ who ~~is~~ permanently ~~assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, James A. Musick Facility, Theo Lacy Branch Jail, or Warrant Bureau~~ shall, in addition to his or her biweekly salary, be paid an additional ~~seventy-five~~ seventeen (17) cents per hour (approximately thirty [30] dollars per month) for all paid hours.

2. An HCA Service Chief I or II who is permanently assigned to the Central Jail/Intake/Release Center (including Correctional Medical Services), Headquarters Records, James A. Musick Facility, Theo Lacy Branch Jail, or Warrant Bureau shall, in addition to his or her biweekly salary, be paid an additional seventy-five (75) cents per hour (approximately one-hundred and thirty [130] dollars per month) for all paid hours.

3. An employee in the classification of Craft Supervisor I/Electrical, Mechanical, Craft Supervisor I/Structural and Craft Supervisor II who is permanently assigned to the Central Jail/Intake/Release Center, Theo Lacy Branch Jail or James Musick Facility shall receive, in addition to biweekly salary, an additional seventy-five (75) cents per hour for all hours paid.

4. This salary supplement shall not apply to workers' compensation supplement pay or be used as a base rate for overtime, other premium pay, etc., unless otherwise required by law.

F. Firefighting Call-Back Pay

Employees in this Representation Unit who are called back to fight fires at a landfill station or in support of wildland fires shall receive seven (7) dollars per call in addition to call-back pay.

G.. Comprehensive Care Nurse Jail Incentive

An employee in any of the below listed classes assigned to work in an adult or juvenile correctional or institutional facility shall, in addition to his or her regular pay, be paid seventy five (75) cents per hour for all hours paid. This incentive shall not apply to worker's compensation supplement pay or be used as a base rate for overtime, other premium pay, etc.

Senior Comprehensive Care Nurse  
Supervising Comprehensive Care Nurse

H. Confined Spaces Pay

1. Supervising Maintenance Inspector/Specialists who are regularly assigned to the Public Works Operations Confined Space Inspection Team shall receive one dollar twenty-five cents (1.25) per hour for those hours actually spent working in confined spaces, as defined in 2., 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.

2. 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 include compartments, ducts, sewers, pipelines, vaults and pits.

I. Emergency Communications Training and Certification Pay

1. Employees in the classification of Sheriffs Special Officer III who are assigned to receive training as or act in the capacity of a Radio Dispatcher or Communication Coordinator shall receive an additional two dollars and three (2.03) cents per hour for all hours assigned while training or acting in the capacity of a Radio Dispatcher or Communication Coordinator at the Emergency Communications Bureau.
2. If, during the term of the contract, the difference between the step 12 hourly rate of the Radio Dispatcher classification and the step 12 hourly rate of the Sheriffs Special Officer II classification exceeds two dollars and three (2.03) cents per hour, the premium will be adjusted accordingly.

J. Commercial Driver's License Pay

Employees in the classifications of Equipment Mechanic Leadworker, Supervising Fleet Technician; and Senior Agricultural Standards Inspector who possesses a valid Class A or Class B driver's license shall be eligible to receive an additional sixty (60) cents per hour for all hours actually 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.

K. Nurse Retention Incentive

1. Upon completion of approximately 10,400 service hours (approximately five years of service), regular or limited-term full-time employees in a Nurse classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 5,200 service hours (approximately five equivalent years of service).
2. Upon completion of approximately 20,800 service hours (approximately ten years of service), regular or limited-term full-time employees in a Nurse

classification shall receive three (3) percent of annual base salary as a one-time, lump sum payment. Regular or limited-term part-time employees shall receive the retention incentive upon completion of approximately 10,400 service hours (approximately ten equivalent years of service).

3. The Retention Incentive shall be processed within two (2) pay periods of the completion of the required service hours.
4. The Nurse Retention Incentive does not apply to employees who have already achieved the required years of service (service hours) as of the date of adoption of this agreement.

L. Nurse Hiring Incentive

Each employee in a Nurse classification who completes new employee probation shall receive a one-time, lump sum incentive of one thousand (1,000) dollars, within (2) pay periods after completion of new employee probation.

M. Advanced Certification Pay

The following employees shall receive, in addition to their bi-weekly salary, the equivalent of one hundred nineteen (119) dollars a month or approximately fifty-five (55) dollars bi-weekly for receiving an Advanced Appraisal Certificate issued by the State Board of Equalization.

Managing Appraiser  
 Managing Auditor-Appraiser  
 Principal Appraiser  
 Principal Auditor-Appraiser  
 Senior Appraiser  
 Senior Auditor-Appraiser

N. Training Officer Assignment Pay

Employees in the classification of Sheriffs Special Officer III assigned to John Wayne Airport, Security Bureau, Court Operations, all jail facilities or the Training Academy on a regular, full-time basis who are responsible for training new Sheriffs Special Officers shall be paid one dollar (\$1.00) per hour for all hours assigned to perform such training functions.

Additionally, employees in the classification of Senior Correctional Services Technician shall be paid one (1) dollar per hour for all hours assigned to perform training for other Correctional Service Technicians.

O. Toxic Hazard Assignment Pay

Employees on pay status in the classification of Senior Forensic Scientist who are assigned to the Clandestine Lab Section of Forensic Services shall

receive one hundred seventy-five (175) dollars per month (approximately \$80.77 per pay period).

P. Automotive Service Excellence (ASE) Certification Pay

1. Employees in the classification of Equipment Mechanic Leadworker or Supervising Fleet Technician who possess and maintain four to seven valid ASE Certifications shall receive an additional fifty-five cents (\$.55) per hour for all hours worked; this may not be combined with 2. below.
2. Employees in the classification of Equipment Mechanic Leadworker or Supervising Fleet Technician who possess and maintain eight or more valid ASE Certifications shall receive an additional seventy-five cents (\$.75) per hour for all hours worked; this may not be combined with 1. above.
3. There shall not be any duplicating or pyramiding of rates paid under this Section. Therefore, employees who are eligible to receive one of the ASE Certification Pays listed in items 1 and 2 above may not receive both in the same pay period.

Q. Professional Land Surveyor License Pay

Employees in the classification of Surveyor III who possess and maintain a Professional Land Surveyor License issued by the State of California shall qualify to receive an additional one dollar and fifty cents (\$1.50) per hour for all hours worked, if any of the following criteria are met:

1. Agency/department management will determine which assignment(s) will qualify to receive this pay.
2. Employees must be assigned to a position that utilizes the Professional Land Surveyor License.

## 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 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 Chief Human Resources Officer, 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 eight (8) 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 eight (8) 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 3. 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. Effective June 1, 2015, a performance rating of "meets performance objectives" shall earn a one (1) 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.

- 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 4. 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 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 5. 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 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 or a series of reassignments among classes on different salary ranges, his or her salary and merit increase eligibility date shall be determined by the Chief Human Resources Officer.

## Section 6. 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 Chief Human Resources Officer.
  - 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 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 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 7. 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 8. 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 Chief Human Resources Officer 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 not more than one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, 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 9. Changes in Salary Allocation

- A. Upon request of the County, negotiations shall be reopened for the sole purpose of considering an increase in salary (unrelated to a classification study) for any class included in this Agreement. Changes 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 10. 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.

Section 11. Paycheck Deposit

- A. The County will permit an employee to authorize automatic deposit of his or her Paycheck to a financial institution of the employee's choice, if and when the Chief Human Resources Officer and Auditor-Controller determine it is feasible.
- B. 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 12. Classification and Compensation Studies

~~The parties acknowledge that the County has not conducted classification and compensation studies on an annual or other regular basis for more than a decade. As a result, the parties agree that in order to provide competitive compensation to employees and to remedy current and future recruitment and retention problems, the County must begin to conduct a reasonable number of classification and compensation studies each year during the~~

~~term of this agreement and thereafter until the backlog of required studies has been reduced to a manageable number or eliminated. The parties therefore wish to ensure that systematic classification and compensation studies be reinstated.~~ The County ~~therefore~~ agrees to conduct a reasonable number of classification and compensation studies annually, and shall consult with OCEA as to both the number of studies to be conducted and the identification of classification series to be studied. Such consultations shall occur at least quarterly each calendar year.

ARTICLE III      GENERAL PERSONNEL PROVISIONSSection 1.      ProbationA.      New Probation1.      Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on new probation period for fifty-two (52) weeks from the date of appointment and ending with the first day of the pay period following completion of said period.

2.      Part-Time Employee

A new or reemployed part-time employee in a regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) paid hours, exclusive of overtime, ending with the first day or 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 section B.2., below.

a. A full-time employee shall serve a probation period of fifty-two (52) weeks ending with the first day of the pay period following completion of said period. However, an employee who promotes from a class in the Supervisory Management Unit 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 or the remainder of any uncompleted new probation period, whichever is longer.

b. A part-time employee shall be placed on promotional probation for two thousand eighty (2080) paid hours, exclusive of overtime ending with the first day of the pay period following completion of said period except that for promotion from a class in the Supervisory Management Unit to a class in the same or closely related occupational series, the promotional probation period shall be one thousand forty (1040) paid hours exclusive of overtime or the remainder of any uncompleted new probation period, whichever is longer.

2. When a regular or 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, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- 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 limited-term positions, except as provided in Section 4.C., 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, except as provided in ~~Section 1.D.4. and 5E.1, 2. And 3.~~ of this Article, below, and an employee who is permitted by the agency/department to work beyond the end of a probation period shall be deemed to have passed such probation period.
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 Chief Human Resources Officer.

#### E. Extension 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. With the mutual agreement of a new probationary employee and his or her agency/department, the employee's new probation period may be extended at the sole discretion of the Chief of Employee Relations for a period not to exceed ninety (90) calendar days provided such action is approved by the Chief of Employee Relations before the normal probation period is completed. In such cases, the agency/department

shall advise OCEA in writing regarding the extension of probation as soon as practicable.

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

3. The Chief Human Resources Officer 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.

## 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. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the official personnel files.

## 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 destroyed pursuant to an agreement between the Chief of Employee Relations 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 annual leave, vacation and **sickhealthcare** 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 annual leave, vacation and **sickhealthcare** leave accrual, 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 section 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.
- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:

a person appointed to a regular position in the County service shall be removed from the list;

a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;

a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

#### 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 agency/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 Chief Human Resources Officer 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. On-Duty Meals

- A. The County shall provide meals to personnel employed in residential care institutions and Probation Department juvenile institutions who are required to be on duty through their own meal period and to take their meals while supervising the activities of the residents.
- B. The County shall provide reasonable reimbursement for meals for employees in field assignments who are required by their supervisor to take their meal period while in custodial charge of a client.
- C. 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 10. Transfer Policy for OCEA Officers and Grievance Representatives

Management shall not, wherever practicable, assign an OCEA officer or grievance representative to a different location if:

- A. the employee's performance "meets" or "exceeds" performance objectives; and
- B. OCEA objects to such assignment (OCEA 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 11. Training

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

## ARTICLE IV LEAVE PROVISIONS

### Section 1. Sick-Healthcare Leave

~~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.~~

#### A. Accumulation of Sick-Healthcare Leave Accrual

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. During the first three (3) years of employment, an employee shall earn .0347 hours of sick-healthcare 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).
3. 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 healthcare 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).
4. Healthcare Sick leave earned shall be added to the employee's healthcare 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.
5. Except as provided by law, extra help employees shall not earn healthcare sick leave.

#### B. Permitted Uses of Healthcare Sick Leave

~~Employees with annual leave balances must use accrued annual leave prior to use of sick leave, until all annual leave has been taken.~~

Healthcare Sick leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy or childbirth, medical or dental appointments during working hours for the diagnosis, care, or treatment of an existing health condition, preventative care, or absences related to Family Leave as defined in Section 15 of this Article. The employee shall notify the

Department in advance to attend medical and dental appointments whenever practicable.

~~2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the agency/department.~~

~~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.~~

42. 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 Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, grandparent, grandchild or legal guardian. Use of this leave is limited to the time period specified in Labor Code section 233.

53. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

4. If an employee is a parent, legal guardian, or grandparent who has custody of a child enrolled in a California public or private school, kindergarten through grade twelve (12), or in a licensed child day care facility, the employee may use up to ten (10) hours per fiscal year, to attend school conferences and events. Any activity that is sponsored, supervised, or approved by the school, school board, or child care facility is acceptable. Examples include participating in parent-teacher conferences, Open House, or a child's school related disciplinary issue. Time off requests to attend such events are non-discretionary, but shall be requested in advance to the extent possible.

65. Illness while on paid vacation will be charged to healthcare 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 **healthcare 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.

~~7. Absence from duty because of personal emergencies or personal business not to exceed thirty (30) working hours during the fiscal year.~~

**86.** An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

~~37. 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.~~

~~78. Absence from duty because of personal emergencies or personal business not to exceed thirtyfourty (340) working hours during the fiscal year.~~

~~9. Up to eight (8) hours of healthcare leave per fiscal year may be donated as a part of the County's Catastrophic Leave Donation plan.~~

#### C. Prohibited Uses of **Healthcare Sick** Leave

1. **Healthcare Sick** leave shall not be applied to:

~~1.~~ **a.** Absence caused by illness or injury to a member of the employee's family except as provided in **B.4., B.5., B.6., or B.8.** above.

~~2.~~ **b.** Absences which occur on a County holiday.

~~2. Healthcare leave shall not be used for circumstances not specified in this Article, unless required by law.~~

## D. General Provisions

1. In any use of healthcare sick leave, an employee's account shall be charged to the nearest quarter hour.
2. Except as prohibited by law 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 when the agency/department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

3. Employees hired on or after July 15, 1977 are not eligible for any payoff of healthcare leave. Employees hired before July 15, 1977 are eligible for healthcare leave payoff under the following conditions:

- ~~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 healthcare leave in an amount computed as provided below:

<u>Years of Service</u>	<u>Percent of Unused Healthcare Sick Leave Paid</u>
<u>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 sickhealthcare 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 sickhealthcare leave provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of sickhealthcare leave paid shall be computed based

on years of continuous service in accordance with Section 1.D.3.a., above. The employee's ~~sick~~healthcare 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~~healthcare 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. Such request must be made at least thirty (30) 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.~~

- ~~46.~~ When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining ~~healthcare sick~~leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid ~~healthcare sick~~days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid ~~healthcare sick~~ days and to accrue additional paid ~~healthcare sick~~ days upon rehiring to the extent required by law.

## Section 2. Bereavement Leave

~~Bereavement leave is paid leave which is available to an employee related to the death of a family member of the employee's immediate family as defined below.~~

~~A. For purposes of this Section, immediately family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.~~

B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive necessary time off with pay, not to exceed five (5) regularly scheduled shifts/days in any one (1) instance for each death, to arrange for or attend a funeral of a member of their immediate family and employees who are in part-time status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, registered domestic partner, child, step-child, grandparent, grandchild or legal guardian.

C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

A.D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### 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 Sections 10, 11.A. and 14, below. The agency/department head may require that all accumulated compensatory leave 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 subsections 2. and 3., below. Such Leave may be authorized only after an employee's completion of an agency/departmental leave and after all compensatory time and vacation accruals 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 year at the discretion of the agency/department except that request for an 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 subsections 4. and 5., below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 14, and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, ~~healthcare~~~~sick\_~~leave and annual leave have been used;
  - b. When Official Leave involves the circumstances covered by Section 1, subsections.B.4, B.5 or B6 of this Article – after all accumulated compensatory time, vacation, ~~healthcare~~ leave (to the extent available to the employee for such use) and annual leave have been used;
  - c. When Official Leave is used for all other reasons – 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 the absence. Use of annual leave beyond the leave balance subject to 100% payoff shall be at the discretion of the employee, subject to the annual leave provision.
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. Except as to leaves which must be granted pursuant to sections 10, 11 and 14 in this Article, the agency/department shall: (a) indicate on the request its decision as to whether the request should be granted, modified or denied; (b) promptly transmit the request to the Chief Human Resources Officer; and (c) deliver a copy to 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 Chief Human Resources

Officer. The decision of the Chief Human Resources Officer 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 Chief Human Resources Officer 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.

### 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 non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
  1. A medical statement setting forth the need for the leave, start date of the leave, the expected date of return and the period of disability shall be submitted with the Leave request.
  2. Such Leave shall begin after all accrued ~~sick~~ healthcare leave, compensatory, vacation and/or annual leave time have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more. (This provision does not apply to pregnancy disability leave.)
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, 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 OCEA Business

The County shall allow a regular, limited-term or probationary employee up to six (6) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCEA business, provided that:

- A. OCEA shall make a request to the employee's agency/department head at least ten (10) days in advance.
- B. OCEA shall not request that such Leave be effective for more than four (4) employees on any workday.
- C. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.

- B. When the County believes an employee has been absent without authorization and the County plans to invoke the provisions of 9.A., above, the County shall send written notice by certified mail to the employee's last known address at least ten (10) calendar days prior to implementing an automatic resignation. Such written notice shall contain:
1. a statement of the County's intention to implement 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 effective date of such proposed action;
  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 automatic resignation shall be implemented.
- C. An automatic resignation shall not be implemented if the employee responds to the notice before the effective date and 1) it was physically impossible for the employee to contact his or her agency/department; 2) the employee can show that it would be arbitrary, capricious or discriminatory to implement the automatic resignation.
- D. An employee who responds prior to the effective date of the proposed action shall be sent written notice of any action taken pursuant to the notice of intent.
- E. An employee who is permitted to continue his or her employment pursuant to subsection B. and/or C., 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 use of **healthcare sick** leave, compensatory time, vacation, annual leave or other paid leave to cover the absence is appropriate.
- F. If an employee does not have authorization to be absent from work, such employee may request authorization from the agency/department head prior to the expiration of the time limit specified in subsection A., above.
- G. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.

- H. Automatic resignation shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 10. 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 (6) 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, compensatory time 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. Healthcare Sick leave or annual leave must 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 Non-occupational 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 11. 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 healthcare 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 the employee:
1. 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. 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. accepts employment outside the County; or
  4. accepts employment in another County position; or
  5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
  6. is retired pursuant to Government Code provisions.
- C. If practicable, an employee on Workers' Compensation Leave and/or 4850 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 12. Leave for Attendance at Professional Conferences

- A. Employees may request ~~four (4) working days leave with pay, or five (5) working days leave with pay for Senior Comprehensive Care Nurse and Supervising Comprehensive Care Nurse,~~ each fiscal year for attendance at professional conferences subject to the following conditions:
1. A request is made in advance on the appropriate Request to Attend a Conference form.
  2. The conference is job related and qualifies for CEU credits if the incumbent's position requires certification or if the incumbent is a registered nurse.
  3. The employee pays all costs connected with the conference attendance, including registration, meals, transportation and/or lodging, if any.
  4. The conference or professional study is located in the United States.

45. The employee agrees to provide within two (2) weeks following the conference a comprehensive report on the event through channels to the agency director with a copy to the Staff Development liaison (to include conference materials, handouts, etc.).
56. The employee's workload is current and his or her performance "meets" or "exceeds" performance objectives.
- B. Attendance at conferences by eligible members of this Unit shall be scheduled throughout the fiscal year to avoid concentration of absences at the same time in the agency or in the assigned unit.
- C. Multiple requests to attend the same conference or conferences scheduled at the same time will be considered based upon availability of adequate caseload coverage in the applicable units, past record of conference attendance, and applicability of the conference to the specific work assignment of the employee.
- D. Requests may be made for additional leave for attendance at a professional conference in any one (1) year under this provision; however, approval shall be at the discretion of the agency/department.
- E. Attendance at conferences outside of the general area United States will require approval under the County Travel Request procedure and is not covered by this provision of a department head.

### Section 13. OCEA Presidential Leave

- A. The County agrees to grant, if requested by OCEA, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding, except as provided below, to the President of OCEA during the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be for a minimum of eight (8) hours.
  2. The Presidential Leave is requested in advance within a reasonable time period. Every effort will be made to give the maximum advance notice. Any notice may be waived by mutual agreement.
  3. OCEA promptly reimburses the County for all OCEA President salary expenses incurred during the Presidential Leave.
  4. OCEA 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 Presidential 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, annual leave and ~~healthcare sick~~ 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, Presidential Leave may be suspended or cancelled during the course of the emergency. OCEA shall not be obligated for reimbursement costs listed in subsections A.3. and A.4. for the period that Presidential Leave is suspended or cancelled. Provisions of subsection A.1. through A.8., above, shall be suspended during said emergency recall.
  - H. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

#### Section 14. Catastrophic Leave

The County will administer a Catastrophic Leave procedure designed to permit individual donations of annual leave, vacation, healthcare leave (8 hours maximum per fiscal year), 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.

## Section 15. Family Leave

### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to this leave. Rights and obligations which are not specifically set forth below are set forth in the U.S. Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the Department of Fair Employment and Housing implementing the California Family Rights Act (CFRA). Unless otherwise provided by this Section "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family Leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical condition..
  - b. The birth of a child, and in order to care for the newborn child within one year of birth.
  - c. Placement of a child for adoption or foster care within one year of placement.
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces.
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and OCEA agree that certain other types of leaves available to employees under this Agreement may meet the requirements of Family

Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for a disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act (See Section 4 of this Article). A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).
8. When a request for Family Leave is approved, the agency/department shall determine whether annual leave, ~~sick~~–~~healthcare~~ leave, compensatory leave, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of ~~sick~~–~~healthcare~~ 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. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent spouse or registered domestic partner, 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. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, registered domestic partner, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military members is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

**Section 16. LEAVE LANGUAGE WORKING GROUP**

Upon adoption of the MOU, the County and OCEA agree to establish a working group to clarify language regarding Leaves of Absences, including streamlining language for understandability.

ARTICLE V      VACATIONSection 1.      Accumulation of Vacation Accrual

~~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.~~

A. ~~During the first three (3) years of employment, a full-time employee in a regular or limited-term position shall earn .0385 hours of vacation for each hour of pay during his or her regularly scheduled workweek (approximately eighty [80] hours per year). Part-time employees will earn vacation on a pro-rated basis. Such credit shall be applied to the employee's vacation accrual account only upon completion of each pay period. 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-accrual 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 (20,800 regularly scheduled hours), 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) per year), under the same terms and conditions as under subsection 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.~~

**ED.** The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of ~~full-time~~ continuous ~~County~~ service shall be three hundred twenty (320) hours ~~or a prorated amount equal to eight (8) weeks of vacation for part-time employees.~~

The maximum allowable vacation credit an employee may accrue at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time~~ continuous ~~County~~ service ~~(20,800 regularly scheduled hours)~~ shall be four hundred (400) hours ~~and a prorated amount equal to ten (10) weeks of vacation for part-time employees.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

**FE.** Employees in the class of Senior Real Property Agent shall earn an additional .0193 hours of vacation for each hour of pay during the regularly scheduled workweek, but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such additional credit shall be applied to vacation ~~accumulation accrual~~ account only upon completion of each pay period, ~~with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.~~ The maximum allowable vacation credit at any one (1) time for ~~a full-time employees~~ with less than ten (10) years of continuous ~~County~~ service shall be three hundred twenty (320) hours ~~or prorated amount equal to eight (8) weeks of vacation for part-time employees.~~ The maximum allowable vacation credit at any one (1) time for ~~a full-time employees~~ with ten (10) or more years of ~~full-time~~ continuous ~~County~~ service ~~(20,800 regularly scheduled hours)~~ shall be four hundred (400) hours ~~and prorated amount equal to ten (10) weeks of vacation for part-time employees.~~ An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## Section 2. General Provisions

**A.** ~~Employees with annual leave balances must use accrued annual leave prior to use of vacation leave, until all annual leave has been taken, with the exception of Section 2.C.~~

**AB.** ~~Not more than eighty (80) hours of paid time may be credited toward accumulation accrual of vacation credit in any pay period.~~

**C.** ~~As soon as practicable following adoption of the MOU by the Board of Supervisors, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours)~~

may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.

**BD.** Approved unpaid leaves, including ~~An~~ Non-Medical Discretionary Official Leave of Absence, Non-Occupational Disability Leave, unpaid Family Leave, or Parenthood Leave shall cause the aforementioned ten (10) years (Article V, Section ~~s~~ 1.C. and E.) of full-time County service to be postponed a number of calendar days equal to the approved unpaid Leave ~~Official Leave~~.

**CE.** 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 ~~s~~ 1.C. and E.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.

**DE.** Additional vacation earned during the period of vacation may be taken consecutively.

**EG.** In any use of vacation, an employee's account shall be charged to the nearest quarter hour.

**FH.** 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.

**GI.** No scheduled vacation will be cancelled by the agency/department, except in cases of emergency.

**HJ.** Illness while on paid vacation will be charged to Sick healthcare lLeave rather than vacation only under the conditions specified in Article IV, Section 1.B.5.

**IK.** 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 Suppression Volunteer, ~~Deputy Sheriff - Emergency Service~~, Election Board Officer or Election Night Help.

**JL.** 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.

**M.** When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.

### Section 3. Vacation Cash Out

## A. Vacation Cash Out Where Employee Has No Annual Leave Balances

- ~~K1.~~ After annual leave has been exhausted, ~~E~~except as provided in ~~§3.A.2.~~, below, during each fiscal year, an employee may request to be paid for accrued vacation in either two (2) separate increments of up to thirty (30) hours each or one (1) increment of up to sixty (60) hours. Such payment shall be made upon request unless the agency/ department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment of vacation remain unchanged.
- ~~L2.~~ After annual leave has been exhausted, ~~d~~During each fiscal year, an employee in the class of Senior Real Property Agent may request to be paid for accrued vacation in either two (2) separate increments of up to forty (40) hours each or one (1) increment of up to eighty (80) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible.
- ~~M3.~~ After annual leave has been exhausted, ~~d~~During each fiscal year, employees in the following classes may request to be paid for accrued vacation in either two (2) separate increments of up to thirty five (35) hours each or one (1) increment of up to seventy (70) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged.

Supervising Radio Dispatcher  
 Senior Correctional Farm Supervisor  
 Senior Correctional Services Technician  
 Sheriffs Special Officer III  
 Senior Sheriffs Community Services Officer  
 Supervising Animal Control Officer

~~N. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining vacation earning rates.~~

## B. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave

1. An employee with an annual leave balance may cash out vacation time if the employee's accrued vacation bank is such that she/he will reach the applicable cap (as set forth in Section 1.D. and 1.E, above) some time

during the fiscal year unless the employee is able to cash out vacation time.

2. If an employee's vacation balance will reach the applicable cap some time during the fiscal year, an employee may cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of one hundred twenty (120) hours each fiscal year.

## ARTICLE VI ANNUAL LEAVE PLAN PROVISIONS

The Annual Leave provisions shall apply to regular and limited term employees hired on or after July 15, 1977, and before the implementation of the 2019-2023 MOU. 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 full-time 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.

G. Employees in the class of Senior Real Property Agent shall earn an additional one (1) hour and thirty-three (33) minutes (approximately 40 hours per year) of annual leave during each eighty (80) hour pay period, or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.

## Section 1. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Effective as soon as practicable following adoption of the MOU by the Board of Supervisors, employees will no longer accrue Annual Leave. Instead, employees will accrue Healthcare Leave and Vacation time pursuant to Article IV, Section 1 and Article V.
- B. Annual Leave must be exhausted prior to any use of Healthcare Leave or Vacation Leave, except employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 regularly scheduled hours) may elect to use a maximum of forty (40) Vacation hours during the fiscal year for approved time off.
- C. During the ninety (90) day period beginning thirty (30) days after the adoption of this MOU, employees will have a one-time opportunity to convert Annual Leave that has been accumulated prior to the implementation of this MOU to Healthcare Leave.

## Section 2. Use of Annual Leave for Illness or Injury

- A. Annual Leave may be applied to:
1. An absence necessitated by the employee's personal illness, injury or disability due to pregnancy or childbirth.
  2. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.
  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. 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.
  5. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes

described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to the time period specified in Labor Code section 233, except as to extra help employees, who will be limited to three (3) days provided they meet the requirements set forth in the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). For purposes of this Subsection “family member” means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

For those extra help employees who qualify for paid ~~sick~~ healthcare leave under Labor Code section 246, the first three days or 24 hours, whichever is greater, of annual leave taken each 12 month period will be considered ~~sick~~ healthcare leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014. The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee’s hire date.

6. Absence from duty because of personal emergencies not to exceed thirty (30) annual leave 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.
- B. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
- C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 3. Use of Annual Leave for Vacation

- A. 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.
- B. No scheduled annual leave will be cancelled by the agency/department except in cases of emergency.
- C. No employee shall be required to return to work for the County in any capacity during the time of his or her paid annual leave from the County service, except in cases of emergency.

- D. 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.

#### 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 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 (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.~~

EA. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

~~F. When a person is reemployed in a regular or limited term position, the Chief Human Resources Officer may, upon the request of the agency/department, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.~~

GB. 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.

~~H. 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. Payoff of Unused 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 thirty (30) hours each or one (1) increment of up to sixty (60) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. Employees in the class of Senior Real Property Agent may request to be paid for annual leave in either two (2) separate increments of forty (40) hours or one (1) increment of eighty (80) hours. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~B. During each fiscal year, employees in the following classes may request to be paid for accrued annual leave in either two (2) separate increments of up to thirty five (35) hours each or one (1) increment of up to seventy (70) hours. Such payment shall be made upon request unless the agency/department determines it is not economically or operationally feasible. In such case, payment shall be made as soon as feasible. It is the intent of this provision that the current practice regarding payment for vacation remain unchanged under the Annual Leave Plan.~~

~~Supervising Radio Dispatcher~~

~~Senior Correctional Farm Supervisor~~

~~Senior Correctional Services Technician~~

~~Sheriffs Special Officer III~~

~~Senior Sheriffs Community Services Officer~~

~~Supervising Animal Control Officer~~

~~A. During each fiscal year, an employee with Annual Leave balances may cash out Annual Leave as follows:~~

~~1. An employee who has less than 600 hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out 60 hours of Annual Leave; an additional 60 hours may be requested, with its payout at the discretion of the Department/Agency Head.~~

~~2. An employee who has 600 or more hours of Annual Leave as of the implementation date of this MOU shall be allowed to cash out up to 120 hours of Annual Leave upon his/her request until such time as his/her accumulation is less than 600 hours, at which point cash out procedures will be governed by Section 5. A.1, above.~~

~~A.B.~~ An employee separating from County service shall be paid in a lump sum payment from the unused annual leave balances as provided below:

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	240 hours maximum paid at 100%
3 but less than 10 years	320 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 400 hours are paid at 100%; the remaining balance after the 400 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 after deducted from the 1600 hours maximum.

Notwithstanding the above, for employees with less than 10 years of service, no employee may receive a payoff paid at 100% that exceeds 320 hours for combined accrued vacation and annual leave. For employees with 10 or more years of service, no employee may receive a payoff paid at 100% that exceeds 400 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Sections 1.D. and E. Remaining hours, up to the accrual limits specified in Article V, Sections 1.D. and E., will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2.L.), will be considered as a payoff for purposes of this provision.)

Employees with 10 or more years of service will be eligible to receive pro-rated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.

~~B.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.

~~C.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 above.

- E. Notwithstanding the above, any Annual Leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the Annual Leave payoff provisions set forth above. This provision shall not apply to the use of Family Leave, Pregnancy Disability Leave, Workers Compensation Leave, or other statutorily protected leave during the final two (2) pay periods of employment.

ARTICLE VII HOLIDAYSSection 1. Holidays Observed

A. Except as modified below, County employees shall observe the following holidays:

2018 — Independence Day, July 4  
 Labor Day, September 3  
 Columbus Day, October 8  
 Veteran's Day, November 12  
 Thanksgiving Day, November 22  
 Day After Thanksgiving, November 23  
 Christmas Day, December 25

2019: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 21  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 18  
 Memorial Day, May 27  
 Independence Day, July 4  
 Labor Day, September 2  
 Columbus Day, October 14  
 Veteran's Day, November 11  
 Thanksgiving Day, November 28  
 Day After Thanksgiving, November 29  
 Christmas Day, December 25

2020 New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January 20  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 17  
 Memorial Day, May 25  
 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

2021 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 24 ( <i>Observed</i> )
	New Year's Day ( <i>Observed</i> )
2022	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 26 ( <i>Observed</i> )
2023	New Year's Day, January 2 ( <i>Observed</i> )
	Martin Luther King, Jr.'s Birthday, January 16
	Lincoln's Birthday, February 12
	Washington's Birthday, February 20
	Memorial Day, May 29

- B. If a holiday falls on a Saturday but is observed on the preceding Friday by the Municipal and/or Superior Courts, employees who have been designated by the County as being necessary to the operation of said courts may be allowed to observe the Court observed Friday holiday in lieu of the Saturday, holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. 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.
- F. 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. A. On each of the holidays designated in Article VII, Section 1, a 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 on the holiday.

B. On each of the holidays designated in Article VII, Section 1, a 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 on the holiday.

### 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.

### BD. 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 B.1. or 2. of this Section, compensatory time for each hour worked to a maximum of eight (8) hours.

E. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A above and holiday compensatory time received under Section 3.C above, shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

DG. 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.

EH. 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.

~~Section 4. Holiday Pay – Part-Time Employees~~

~~A. On each of the holidays designated in Article VII, Section 1, a 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 on the holiday.~~

~~Section 5. Compensation for Holidays Falling on Scheduled Days Off~~

~~A. When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of compensatory time.~~

~~B.A. 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.~~

## 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 reimbursed for each mile driven in the performance of his or her duties during each monthly period as follows:
1. Through December 31, 1994 the reimbursement rate shall be thirty-nine (39) cents per mile.
  2. Except as provided in A.4., below, effective January 1, 1995 through June 22, 1995, the reimbursement rate shall be thirty-four (34) cents per mile.
  3. Except as provided in A.4., below, effective June 23, 1995, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
  4. Effective January 1, 1995, for an employee who drives two hundred-fifty (250) or more miles in any calendar month in the performance of his or her duties the reimbursement rate shall be thirty-nine (39) cents per mile for each mile driven that month in the performance of his or her duties.
  5. Effective January 1, 2006, employees who drive two-hundred fifty (250) or more miles in any calendar month in the performance of their duties shall be reimbursed at a differential rate of ten (10) cents per mile above the standard IRS mileage rate for each mile driven that month in the performance of his or her duties.
  6. There shall not be any duplication or pyramiding of reimbursement rates paid under this Section.
- 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. Employees as designated below who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of six-hundred and twenty five (625) dollars per fiscal year. Eligible employees shall include employees in the following classes:

Automotive Mechanic Leadworker  
Equipment Mechanic Leadworker

- B. Persons employed as Senior Communications Technician - Supervisory who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred (400) dollars per fiscal year.
- C. Persons employed as Senior Equipment Welder who are required to furnish their own tools shall be eligible for reimbursement for tool purchases to a maximum of four hundred twenty-five (425) dollars per fiscal year.
- D. 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 fifty (50) dollars will be applied to each employee's loss. The payment of claims under such coverage shall not be appealable under the grievance procedure.
- E. 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 fifty (50) dollar cash refund in consideration of the fifty (50) dollar deductible. If replacement tools have not been secured, the employee shall return all reimbursement funds received from the County.

## Section 4. Calculator Allowance

- A. The County shall pay a ten (10) dollar annual calculator allowance to Eligibility Supervisors who do not otherwise have access to a County provided calculator. Said allowance shall be paid to Eligibility Supervisors who furnish a calculator for use in performing their duties subject to the following conditions:
1. Eligible employees must submit a claim on or before August 31 of each year on a form provided by the County for that purpose.
  2. The County shall not be held liable for the purchase, replacement, maintenance or repair of any calculators, batteries or other appurtenances furnished by the employee pursuant to this provision.
- B. The annual calculator allowance shall be payable in September of each year during the term of this Memorandum of Understanding.

Section 5. Boots

- A. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty (150) dollars per fiscal year.

Landfill Operations Supervisor I  
 Landfill Operations Supervisor II  
 Landfill Operations Superintendent  
 Senior Building Inspector  
 Supervising Animal Control Officer  
 Supervising Building Inspector

- B. Employees in the below listed classes who are required to furnish their own safety workboots shall be eligible for reimbursement up to one hundred and fifty (150) dollars per fiscal year.

Supervising Construction Inspector  
 Principal Construction Inspector  
 Park Maintenance Supervisor I,II  
 Maintenance Crew Supervisor I,II,III,IV  
 Public Works Maintenance Supervisor I  
 Public Works Maintenance Supervisor I/Vegetation  
~~Senior Vegetation and Pest Control Technician~~  
Senior Integrated Pest Management Technician

- C. Employees in the below listed classes that are regularly assigned field assignments and who are required to furnish their own safety workboots shall be eligible for reimbursement up to a maximum of one hundred and fifty (150) dollars per fiscal year.

Craft Supervisor I, II  
Senior Land Surveyor  
Senior Engineering Technician  
Supervising Engineering Technician I, II, III  
Supervising Maintenance Inspector Specialist  
~~Survey Party Chief~~  
Surveyor III

- D. Employees of the Orange County Public Works Dept. (OCPW) in the below listed classes that are regularly assigned field or wilderness assignments and who are required to furnish their own safety work boots shall be eligible for reimbursement up to a maximum of \$150 per fiscal year:

~~Environmental Engineering Specialist~~  
~~Senior Environmental Resources Specialist~~  
Senior Agricultural Standards Inspector  
Senior Civil Engineer (Some assignments, as determined by management, may only be eligible for safety work boots every other year, when the assignment does not require daily field work)

E. The parties agree to establish a working group to identify additional classifications or to develop a policy for identifying classifications and/or positions qualifying for safety boot reimbursement.

F. During the first year of this contract, a Department Head in conjunction with Risk Management may authorize provision of safety work boots through a boot-mobile, voucher, or a reimbursement of a maximum of \$150 per fiscal year for additional positions/employees that as a result of their duties are required to wear safety compliant work boots on a regular basis.

Section 6. Educational and Professional Reimbursement

A. Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution (PSR).

## 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 OCEA in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying or canceling a proposed discharge on or prior to the effective date of such action.
- F. An employee shall receive written notice either sustaining, modifying or canceling a proposed suspension or reduction prior to the effective date of such action except that such written notice may be given after the imposition of suspensions pursuant to Section 2, above.
- G. 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.
- H. 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 County 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 County 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 Chief of Employee Relations except for discharges imposed by the County 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 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 OCEA in an investigatory meeting. An employee is not entitled to be represented by privately retained counsel at the meeting, provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the investigatory process including, but not limited to, the 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;
  - 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) calendar days thereafter appeal to the next step in the procedure.
- 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 OCEA, any step of the procedure may be waived.
- D. The Chief of Employee Relations may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency/department-wide or County-wide basis in an emergency situation. OCEA 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 sixty (60) calendar days from the date of filing the written grievance.
- H. In order to encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the County and OCEA agree that the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

### 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 a group grievance, each employee must be individually identified as a grievant when the grievance is submitted at Step 2.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by OCEA in the formal grievance/appeal procedure. An employee is not entitled to be represented by privately retained counsel during the grievance process or arbitration hearing. Provided, however, an employee eligible for Legal Defense Fund coverage (LDF) under PORAC or any other OCEA-approved LDF provider shall be entitled to be represented by privately retained counsel obtained through that coverage during the grievance process and/or arbitration hearing.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency/department or Representation Unit as the grievant/appellant who are members of and are designated by OCEA to represent employees for purposes of the grievance/appeal procedure. OCEA shall notify agency/department heads of the names and titles of such representatives and send a copy of such notice to the Chief of Employee Relations quarterly.
- C. If an employee chooses not to be represented by OCEA, OCEA 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 OCEA'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 OCEA.

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: Chief of Employee Relations

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. a 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief of Employee Relations 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 Chief Human Resources Officer 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 Chief of Employee Relations 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 County Executive Officer may be presented to the Chief of Employee Relations 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 OCEA 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 Chief of Employee Relations, an arbitrator shall hear the appeal.

## 2. Findings of Facts and Remedies

### a. Findings of Facts

An arbitrator's decision shall set forth the findings as to each of the charges and the reasons therefore. The arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### b. Remedies - All Disciplinary Actions (Other than Discharge)

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

#### 2. Suspensions/Reductions

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

### c. Remedies - Discharges

1. If the arbitrator finds that the order of discharge should be modified, the employee 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 employee was removed from duty as determined by the arbitrator.

2. If the arbitrator finds that the order of discharge should be rescinded, the employee shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

3. Restoration of pay and benefits shall be subject to reimbursement of all unemployment insurance and additional outside earnings which the employee 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 XVII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and OCEA?
  - 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 OCEA?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no violation of Article XVII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds a violation of Article XVII, 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 XVII, 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. Except as otherwise required by law, 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 XVII, 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 two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County 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 Mediation and 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 whenever practicable, except that any party may opt to file a closing brief in lieu of an oral closing argument. The parties agree to, whenever practicable, forego the use of a court reporter in arbitrations resulting from a suspension.
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 agree to submit a grievance/appeal to mediation. A request for mediation may be presented in writing to the Chief of Employee Relations within seven (7) calendar days from the date a decision was rendered at Step 2. A request for mediation will automatically suspend to 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, considered advisory and shall not be admissible evidence in any arbitration that should follow. 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 (1) or more functions of one (1) 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 Chief of Employee Relations may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief of Employee Relations 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 Probationary	Layoff Points

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. OCEA may designate employees who are regular OCEA officers or grievance representatives 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 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.
- 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 OCEA 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~~healthcare leave credited to the employee's account or any unpaid annual leave 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 annual leave, ~~sick-healthcare~~ leave and vacation, 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 Chief Human Resources Officer.
  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., or California Labor Code 4850 for employees in the classification of Sheriffs Special Officer III. Upon exhaustion of 4850 Benefits, the following Workers' Compensation Supplement Pay provision shall apply.

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 sick-healthcare leave, compensatory time, annual leave and/or vacation, in that order.
- C. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any sick-healthcare leave, compensatory time, annual leave or vacation time previously accumulated by the employee. The employee shall not accrue sick-healthcare leave, annual 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 sick healthcare leave, compensatory time, annual leave and/or vacation expended since the fourth 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 sick-healthcare leave, compensatory time, annual leave 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 sick-healthcare leave, compensatory time, annual leave and/or vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph A., 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 sick-healthcare leave, vacation and annual leave 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-healthcare 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 Fire Fighter or Deputy Sheriff - Emergency Service~~

~~Whenever a Paid Call Fire Fighter 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 Fire Fighter 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 OCEA 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. OCEA 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2.     Safety Inspection

During inspection of County facilities conducted by the State Division of Occupational Industrial Safety and Health for the purpose of determining compliance with the California OSHA requirements, an OCEA 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 OCEA 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. Uniforms

A. The County will provide uniforms for regular employees in the following assignments:

1. Resources and Development Management Department

Custodial Services Supervisor  
 Custodian Leadworker  
 Equipment Mechanic Leadworker  
 Maintenance Crew Supervisor I, II, ~~III and IV~~  
Maintenance Crew Lead I, II  
 Supervising Custodian I and II  
 Supervising Fleet Technician  
 Weed Abatement Supervisor

2. Sheriff - Coroner Department

Head Cook  
 Senior Head Cook

B. 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.

C. The parties will establish a working group to review the issue of required uniforms for certain employees in the Orange County Public Works Department (OCPW). The working group will commence its work within 45 days of the adoption of the MOU with a goal of concluding the review within 90 days thereafter.

### Section 2. Special Equipment

The County will provide employees in the class of Sheriff Special Officer III with firearms, batons, handcuffs and leather goods whenever these items are required by the County.

## ARTICLE XV OCEA 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 OCEA members in this Representation Unit and insurance premiums for such OCEA 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 OCEA.
- B. OCEA shall notify the County, in writing, as to the amount of dues uniformly required of all members of OCEA 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 OCEA 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 OCEA with any other information needed pursuant to Article XIX, Section 3. OCEA agrees to pay all costs necessary to providing such lists.

### Section 4. Use of Bulletin Boards

Space shall be made available to OCEA 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 OCEA responsible for its issuance.

### Section 5. Use of County Facilities

OCEA may, with the approval of the Chief of Employee Relations, hold meetings of their members on County property during nonworking hours provided request is made to the Chief of Employee Relations 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 Orange County Employees Association agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

OCEA shall not discriminate in membership or representation as required by state and federal law.

## ARTICLE XVIII POSITION CLASSIFICATION

### Section 1. The Establishment of New Classes

The County will provide OCEA 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 OCEA 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 forwarding of the request to the Human Resources Department with 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 thirty (30) calendar days, the employee may submit the request to OCEA for consideration.

- b. If the Human Resources Department studies a position at the employee's request as provided above and the employee does not agree with the County's decision, the employee may submit the request to OCEA.

Step 3: After receiving an employee request for study, OCEA may request in writing that the Human Resources Department conduct a classification study of the position or refer the matter to a consultant, as provided in Step 4. Such requests are to be timely.

Step 4: The Human Resources Department shall determine when the position was last studied and whether there has been a change of duties or change in classification structure which justifies restudy.

- a. If the study is justified, and the request is made under Step 2.A., the employee shall be given a Position Description Form within fifteen (15) days. Within one hundred twenty (120) calendar days after the Human Resources Department receives the completed Position Description Form, the Human Resources Department shall notify OCEA of the appropriate classification of the position.
- b. If the study is justified and the request is made under Step 2.B., the Human Resources Department shall complete the study in thirty (30) days and communicate the results to OCEA. If the study is not completed within thirty (30) days, upon request of OCEA the matter shall be referred to a consultant under the provisions of Section 5. of this Article.
- c. If the study is not justified, the County shall notify OCEA within fifteen (15) days. OCEA may accept the County position that the study is not justified or may request a consultant review as provided in Section 5.

#### Section 4. Limitations on Concurrent Studies

- A. The County shall not be required to initiate a study if the total number of positions currently requested by OCEA for reclassification studies plus the new request exceeds twenty-five (25) positions.
- B. The numerical limitation shall apply only to studies for which Position Description Forms have been initiated and shall not include studies which have been referred to or are pending referral to a consultant.
- C. In the event of a major layoff of County employees, all time limits in Section 3. of this Article shall be extended forty-five (45) days.

Section 5. Review of Disputed Position Classification Decisions

- A. If the County does not respond at the end of the appropriate time period as specified in Section 3., Step 4 of this Article, or OCEA does not agree with a position classification decision of the County after the steps in Section 2. or 3. of this Article have been followed, the issue may be presented to a classification consultant for advisory review. Other provisions notwithstanding, no more than fifty (50) positions may be referred to a consultant per fiscal year 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 Human Resources Department 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 OCEA members. The cost of the consultant shall be shared equally by the County and OCEA.

## ARTICLE XIX INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all full-time regular, limited term, and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage - eighty-five (85) percent of the employee's premium or ninety (90) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium, for each employee and such employee's eligible dependents or seventy-five (75) percent of the employee's premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F. below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty-two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37 ½) percent of the total health plan premium, for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
5. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

~~C.B.~~ Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status, such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce from a covered spouse shall

require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- ~~D.C.~~ **Dual Coverage:** If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- ~~E.D.~~ For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to pay health insurance premiums as provided in A and B, above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A and B above, to the extent required by applicable law.
- G. Effective January 1, 2008, active employees are pooled separately from retirees for purposes of setting premiums for participation in County-offered health plans.

## Section 2. Health Plan Enrollment

- A. 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. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state/federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees, to change their enrollment in a County health plan.

- D. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a retiree health plan.

Section 3. Other Insurance Coverage

- A. OCEA shall maintain a trust fund administered in compliance with applicable state and federal law, for the purpose of providing dental, vision, disability and other benefits for employees in regular or limited term positions in the Representation Unit.
- B. The County shall, on a biweekly basis, forward thirty cents (\$0.30) per hour for all regular hours paid for all employees in this Representation Unit for deposit in said trust fund; the County shall forward at least monthly an amount equal to thirty cents (\$0.30) for each regularly scheduled hour in each full pay period of unpaid leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available by OCEA to all employees in the Representation Unit on an equal basis regardless of membership status.
- D. OCEA 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 OCEA, the trust fund, its trustees, attorneys, agents, advisors and representatives harmless from any claims or legal action 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.
- E. 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 transaction 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

#### Section 5. Retiree Medical Plan

##### A. Retiree Medical Grant

1. Effective August 1, 1993, and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person.
2. As set forth pursuant to the September 2006 reopener between the parties, the County will: (a) fund the cost of the Plan; and (b) establish a trust to administer the Plan.
3. Upon paid County retirement, if eligible, a retiree shall receive a Retiree Medical Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered retiree health insurance plan and/or Medicare premiums as provided below.

- a. Upon implementation of the Plan, for eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year during retirement, the amount of such Grant shall be adjusted by the average percentage increase or decrease in County retiree health plan premiums no later than the effective dates of such changes, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. 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 the date when the employee takes active retirement from OCERS. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement from OCERS 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 age on the date when the employee takes active retirement from OCERS. 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 from OCERS will be deemed the retirement date.
  3. Sections 5.A.3.b.1 and 5.A.3.b.2 shall not apply to Disability Retirements.
  4. 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, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B as of the date of retirement. 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 retire and become eligible for a Grant shall be provided a one time opportunity of thirty (30) days to enroll in a County offered retiree health plan from the date they retire. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Grant, if eligible, and enrollment in a County offered retiree health plan.

**B.A. Retiree Medical Plan Lump Sum; Termination; Phase Out**

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with C.2 below. The Plan Lump Sum benefit is terminated for all new County employees hired on or after June 23, 2006.
2. An employee who is employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regular paid hours immediately proceeding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

**C. Eligibility Requirements for Retiree Medical 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 (OCERS).
2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a.,b.,c., and d. below:
  - a. A retiree who receives a service-connected disability retirement pension under OCERS shall be eligible for a Grant equal to either ten (10) years of credited service or actual years of County service, whichever is greater.
  - b. A retiree with a minimum of five (5) years of credited County service who receives a non-service connected disability retirement pension

under OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension under OCERS shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of credited County service or is under normal retirement age and has requested a service or non-service connected disability retirement pension under OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the Orange County 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 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 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 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 Grant.
5. For purposes of this Section, a full year of credited service shall be based upon 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. Hours of service performed in periods before August 1, 1993, shall be counted toward credited service only if the employee has been continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

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

#### E. Transition from County Retiree Medical Grant to an OCEA-Administered Retiree Medical Trust

The County and OCEA agree to an immediate reopener, within two weeks of the adoption of this MOU by the Board of Supervisors, to discuss the possible transition of OCEA-represented County employees from the County's Retiree Medical Grant into an OCEA-administered Retiree Medical Trust (OCEA RMT) based on the following:

1. The OCEA RMT shall be a Voluntary Employees Beneficiary Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) or similar plan.
2. As part of any transition, the County shall initially transfer to the OCEA RMT the agreed upon "Actives" portion of allocated assets of the current County Retiree Healthcare Plan.
3. As part of any transition, the County shall make recurring contributions to the RMT, consistent with the County's Actuarially Determined Contribution (ADC) as of June 30, 2019.
4. OCEA agrees to provide an actuarial projection based on reasonable actuarial assumptions which supports the goal of the OCEA RMT providing a benefit comparable to the current County Retiree Medical Grant.
5. OCEA agrees to provide to the County an annual audited financial report of the OCEA RMT.
6. OCEA agrees that OCEA and/or its advisors will only charge reasonable administrative fees.
7. OCEA agrees to establish the OCEA RMT in such a manner as to enable the participation of other bargaining groups who comply with the OCEA RMT's requirements.

8. Both parties understand that it is a goal of the plan that it be cost neutral for the County and that the RMT not result in a requirement that the County report an unfunded liability associated with the OCEA RMT in the County's financial statements to comply with governmental accounting standards.

9. The County waives its right to unilaterally implement any provisions in connection with this reopener during the term of this MOU.

## Section 6. Reopener

### Reopener as a Result of the ACA

The County may reopen negotiations on this Article<sup>1</sup> and other provisions of the MOU (eg., Flexible Spending Accounts in Article XXV), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits). Notwithstanding the above, the County may not reopen negotiations on these issues unless the issues have first been discussed as part of a Working Group.

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.

## Section 7. Physical Examination

The County will provide voluntary annual physical examinations by a County-designated physician at no cost to the employee.

## Section 8. Accidental Death and Dismemberment Insurance

The County shall provide a one hundred thousand dollar (\$100,000) Accidental Death and Dismemberment policy for death or dismemberment for employees in the classification of Sheriffs Special Officer III. Such insurance will be subject to the limitations of liability contained in those insurance policies.

<sup>1</sup> Section 3 of this Article will not be reopened unless (and only to the extent that) its provisions are impacted by the ACA.

ARTICLE XX      DEFINED CONTRIBUTION

Section 1.    An employee in a regular position may, at his or her request, participate in the County's Section 457(b) Defined Contribution Plan.

Section 2.    The parties agree to establish a working group to explore: (1) the possibility of expanding investment options in the County's Defined Contribution plans to include unitization of the OCERS fund; and (2) the retiree medical plan.

Section 3.    The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Defined Contribution plan.

ARTICLE XXI RETIREMENTSection 1. Retirement Benefit Levels

- A. For Employees Hired Prior to January 1, 2013 and for Employees Hired on or After January 1, 2013 who are Considered "Legacy Members" of OCERS within the Meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA).
1. Except as set forth in Section A.2 and A.3 below, employees 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.
    - a. For employees hired on or before September 20, 1979 the retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
    - b. For eligible employees hired on or after September 21, 1979, the retirement allowance will be computed upon the employee's highest three (3) years of compensation per Government Code section 31462.
  2. 1.62% at 65 Pension Formula Election for Employees Hired Prior to May 7, 2010.
    - a. Employees hired prior to May 7, 2010 will be eligible for the Pension Formula Election described below once the Board of Supervisors approves an implementing resolution (which shall be after pending tax issues have been resolved so that the election will not result in any negative tax consequences for eligible unit members). Eligible employees will 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 Government Code section 31676.19 (the "2.7% at 55" benefit formula) and elect instead the pension calculation stated in Government Code section 31676.01 (the "1.62% at 65" benefit formula) for future County service.
    - b. In the event an eligible employee fails to make an election during the period set forth in Subsection 2a above, the employee shall continue to be provided with the "2.7% at 55" benefit formula and shall make the employee retirement contributions established for that benefit formula.

- c. In the event an eligible employee elects the “1.62% at 65” benefit formula, the employee shall be eligible to participate in the County 1.62 Retirement 457(b) Defined Contribution Plan (the “DC Plan”) described in Section 3 below.
    - d. Effective with the beginning of pay period following the date an employee elects the “1.62% at 65” benefit formula, the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Government Code section 31621. The employee will will also make the contributions described in Section 2.B and C of this Article.
3. Election Option of “2.7% at 55” or “1.62 at 65” Pension Formula for Those Employees Hired by the County between May 7, 2010 and January 1, 2013.
  - a. Employees hired on or after May 7, 2010 and prior to January 1, 2013 were required to make the pension benefit formula election provided for in Board Resolution 10-072.
  - b. Employees had forty-five (45) calendar days from the date of hire or appointment to elect either the “2.7% at 55” benefit formula or the “1.62% at 65” benefit formula. Regardless of which benefit formula was selected, the employee is required to make retirement contributions in accordance with the provisions of Section 2.B and C below.
  - c. In the event an eligible employee failed to make an election during the 45 day period set forth in subsection 3.b above, the employee was deemed to have elected the “1.62% at 65” benefit formula.
  - d. An employee who elected, or was deemed to have elected, the “1.62% at 65” benefit formula is eligible to participate in the “DC Plan” described in Section 3 below.
  - e. After the employee made an election or was deemed to have made an election as described in Subsection 3.b and c. above, the employee is required to make retroactive contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in this Article. County matching contributions to the DC Plan, for employees who chose the “1.62% at 65” benefit formula are not retroactive to the employee’s date of hire and are calculated from the date that the employee made an election or was deemed to have made an election of the “1.62% at 65” benefit formula.

- f. Effective with the pay period following the date an employee elected, or was deemed to have elected, 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 Section 2.B and C below.
- B. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
    - 1. The retirement formula will be the “1.62% at 65” benefit formula described in Government Code section 31676.01, utilizing the average three highest years of compensation per Government Code section 7522.32. Pensionable compensation and other pension related conditions are governed by the provisions of PEPRA and the OCERS Board of Retirement. Employees will also make the contributions described in Section 2.B and C. below
    - 2. “New Members” are eligible to participate in the “DC Plan” described in Section 3 below.

## Section 2. Retirement Contributions

- A. Members' normal contribution rates shall continue to be established and adjusted subsequent to and in accordance with state law and the actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. 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 OCERS actuary. Employees will pay the full member contribution for each of the benefit plans provided by the County.
- C. Employee Retirement Contributions pursuant to Offset the Increased Cost of the “2.7% at 55” benefit formula:
  - 1. The implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County for as long as the enhanced benefit formula is provided to employees, ie., it will be borne entirely by the employees. Effective with the pay period that commenced on June 24, 2005, unit members began making an additional employee contribution to the retirement system. This contribution is 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 is 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 is known as the "Reverse Pickup" and is designed to offset both the prospective increased costs, as well as the increased costs attributable to past service liability of providing this enhanced retirement benefit.

- a. The portion of the additional employee contribution that is attributable to past service liability 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 30-20 year period, the cost of the enhanced retirement benefit.
- b. The portion of the additional employee contribution that is attributable to the prospective increased cost of the benefit shall also continue beyond the expiration date of this MOU but unlike the past service liability, does not expire at the end of the 30-20 year period set forth above.

~~2. After implementation of this benefit, the County and OCEA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.~~

~~3. The relative-ratio based methodology will be used to determine the additional employee contribution toward the "2.7% at 55" retirement benefit formula.~~

### 3. Reduction in Reverse Pickup

a. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, the annual reverse pickup contribution rate for employees in the PEPR and 1.62% at 65 Classic benefit formulas will be frozen at the fiscal year 2019-2020 rate. The reverse pickup contribution rate for employees in the 2.7% at 55 benefit formula shall continue to be calculated pursuant to Section 2 of this Article.

b. Effective the first day of the first full pay period following Board of Supervisors adoption of this MOU, reduce Reverse Pickup by an ongoing 1.2%.

c. Effective July 3, 2020, reduce Reverse Pickup by an additional 1.2%, for a total fixed ongoing 2.4% reduction of the employee's paid reverse pickup.

d. Effective July 2, 2021, reduce Reverse Pickup by an additional 1.2% for a total fixed ongoing 3.6% reduction of the employee's paid reverse pickup.

e. By July 2, 2021, the entire Reverse Pickup for employees in the PEPR and 1.62% at 65 Classic benefit formulas shall be eliminated.

### Section 3. Defined Contribution Retirement Plan

- A. Beginning on May 7, 2010, the County will make available a County 1.62 Retirement, Section 457(b) Defined Contribution Plan (the "DC plan") to those employees who are covered by the "1.62% at 65" benefit formula (whether by election, deemed to have elected or are hired on or after January 1, 2013 and are deemed to be "new members" within the meaning of PEPR). These employees will be permitted to make voluntary contributions to the Plan. The County will make matching contributions as described in Section 3.B. below.
- B. ~~During the first one-year period following the plan commencement date,~~ The County will contribute a biweekly amount to a Section 401(a) Defined Contribution Plan for an eligible employee equal to the biweekly amount that the employee contributes to the 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 a Section 401(a) Defined Contribution Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to the Plan. The County contribution to the Section 401(a) Defined Contribution 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 3.(D).~~ County contributions to the Section 401(a) Defined Contribution 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 the Plan(s) and the County contributions to the Section 401(a) Defined Contribution 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. Notwithstanding the foregoing, the parties agree that at no time shall the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than fifty (50) percent of an employee's biweekly contribution to the Plan, nor shall the maximum amount of the County's matching contribution to a Section 401(a) Defined Contribution Plan be less than two (2) percent of an employee's base salary.~~

#### Section 4. 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 XXII    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 XXIII RECOGNITION

Pursuant to the Employee Relations Resolution of the County of Orange and applicable State law, the Orange County Employees Association is the Exclusively Recognized Employee Organization for the Supervisory Management Unit for classes in effect on June 23, 2019. Said classes are listed in Appendix A.

ARTICLE XXIV 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 eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow eligible employees 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 by state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan document.

ARTICLE XXV PERFORMANCE INCENTIVE PROGRAM (PIP)

Section 1.

Effective, June 1, 2015, employees who are granted PIP awards will receive non-cashable time off of twenty (20) hours. This time off will not be subject to the requirement that PIP time be taken off within one (1) year.

All other performance management components of PIP remain in effect.

## ARTICLE XXVI LABOR MANAGEMENT COMMITTEES

### Section 1. Introduction

- A. The County and OCEA desire to mutually encourage a cooperative, collaborative partnership approach to addressing and resolving workplace issues. The County and OCEA further desire to provide an opportunity for labor and management representatives to promote and maintain harmonious labor/management relations through the establishment of agency/department Labor Management Committees. This section is not intended to change or replace mutually agreeable existing arrangements, including labor-management forums, except by mutual agreement.
- B. The Labor Management Committee (LMC) process is intended for agency and department management and labor representatives to collaborate in a regularly scheduled (at least monthly) forum to develop solutions to workplace issues that are deemed appropriate for discussion. The County and OCEA recognize that this process will provide an important opportunity to achieve mutually acceptable solutions to workplace issues.
- C. It is the intent of the process that each party should raise issues prior to making decisions or adopting courses of action that may affect the other party.
- D. An issue may be considered by the LMC members unless the issue:
  - 1. Concerns only an individual employee, such as that employee's performance evaluation, PIP award, discipline or an individual problem with another employee;
  - 2. Has County-wide impact; or
  - 3. Involves the classification of one or more employees.
- E. LMC members will have the authority to discuss and develop solutions to workplace issues submitted by employees and management and to present those solutions to the LMC Sponsors.
- F. The activities of LMCs will be effectively communicated to all employees through monthly newsletters or other mutually agreeable methods.

## Section 2. Structure

- A. The LMC program shall be jointly administered by four central LMC Program Sponsors, two of whom shall be appointed by the Chief of Employee Relations and two of whom shall be appointed by OCEA. Any issue concerning the implementation or administration of the LMC process may be referred to the LMC Program Sponsors by request of either party.
- B.
  - 1. Every agency/department shall have an LMC.
  - 2. The agency/department LMC structure shall consist of management representatives selected by the agency/department and employee representatives selected by OCEA. The LMC Program Sponsors may also select representatives to participate on the LMC.
  - 3. Each agency/department LMC shall have two sponsors who may or may not be members of the LMC: the agency/department head and a representative designated by OCEA. The role of the sponsors is to monitor the direction and progress of the LMC and to provide the support and resources necessary to constructively address and resolve workplace issues.

## Section 3. Time off for LMC Activities

- A. A reasonable number of employees shall be allowed reasonable time off without loss of pay to serve as employee representatives in the LMC process.
- B. In addition to A, above, reasonable time off without loss of pay shall be given to employees and LMC employee representatives as necessary to effectuate the purposes of the LMC process.

## Section 4. Process

- A. Employees may submit a form entitled Workplace Issue Statement Form describing the workplace issue, the recommended change(s) and the advantage(s) associated with the change. Employees may choose to remain anonymous when submitting their workplace issue; however, anonymity may hinder the ability of the LMC to fully evaluate the issue presented.
- B. Employees may submit the Workplace Issue Statement form to any active LMC member or to LMC sponsors.
- C. The LMC member shall discuss and develop possible solutions to the submitted workplace issues. An LMC member may contact the employee who submitted the workplace issue to obtain additional information/clarification.

- D. Workplace issue solutions will be determined by a consensus of the members present at the LMC meeting and submitted as a recommendation to the LMC sponsors.
- E. Within 30 days of receipt of the LMC recommendation, the agency/department LMC sponsors shall respond to the LMC members in writing, indicating their acceptance, suggested modifications or rejection of each proposed solution and/or schedule for implementation. The sponsors shall provide written reasons for a rejection/modification of a solution submitted by the LMC.
- F. Any issue which is not resolved by the agency/department LMC shall upon request by either departmental sponsor be submitted to the central LMC Program Sponsors for advisory review.

ARTICLE XXVII SALARY

1. Effective the first day of the first pay period following adoption of this ~~2018-2019~~2019-2023 MOU, the salary schedule will be increased by ~~1.52.500~~2.50%.
2. Effective ~~January 4, 2019~~July 3, 2020, the salary schedule will be increased by ~~1.00~~2.50%.
3. Effective July 2, 2021, the salary schedule will be increased by 2.50%.
- 2.4. Effective July 1, 2022, the salary schedule will be increased by 3.5%.

**Article XXVIII DEPENDENT/CHILD CARE AND WORK-LIFE BALANCE**

**Section 1. Upon adoption of the MOU, the County and OCEA agree to establish a working group to discuss issues related to dependent/childcare and work-life balance.**

## APPENDIX A

Classes included in the Supervisory Management Unit as of June ~~2321, 2018~~2019:

0821SM Accounting Office Supervisor I  
 0822SM Accounting Office Supervisor II  
 3549SM Airport Maintenance Superintendent  
 3553SM Airport Maintenance Supervisor  
 5503SM Airport Operations Supervisor  
~~2523SM Bibliographic Services Supervisor~~  
~~2518SM Branch Librarian~~  
 1793SM Chief Cadastral Technician  
 1640SM Chief Cook  
 5915SM Chief of Animal Services Operations  
 5154SM Chief of Veterinary Services  
 4522SM Chief Pharmacist  
 0549SM Civil Process Supervisor  
 2552SM Community Relations Coordinator - Library  
 2755SM Correctional Programs Supervisor I  
 2754SM Correctional Programs Supervisor II  
 3182SM Craft Supervisor I/Electrical, Mechanical  
 3180SM Craft Supervisor I/Structural  
 3183SM Craft Supervisor II  
 1455SM Custodial Services Supervisor  
 1446SM Custodian Leadworker  
~~7933SM Database and Security Administrator~~  
 0486SM Data Entry Supervisor I  
 0487SM Data Entry Supervisor II  
 0489SM Data Entry Supervisor III  
 4587SM Dental Officer  
 0650SM Election Section Supervisor  
 7004SM Eligibility Supervisor  
 3325SM Equipment Mechanic Leadworker  
 3192SM Facilities Contract Services Supervisor  
~~1420SM Fee Station Attendant Supervisor I~~  
~~1421SM Fee Station Attendant Supervisor II~~  
 0841SM General Ledger Accounting Supervisor  
 1757SM Geographic Information Systems (GIS) Supervisor  
 7117SM HCA Program Supervisor I  
 7118SM HCA Program Supervisor II  
 7130SM HCA Service Chief I  
 7131SM HCA Service Chief II  
 1635SM Head Cook  
 2154SM Housing Supervisor  
 7952SM IT Supervisor  
~~3531SM Landfill Operations Superintendent~~  
 3528SM Landfill Operations Supervisor I  
 3529SM Landfill Operations Supervisor II

0585SM Law Office Supervisor

2403SM Librarian I

2404SM Librarian II

2405SM Librarian III

2406SM Librarian IV

3554SM Maintenance Crew Supervisor I

3555SM Maintenance Crew Supervisor II

3557SM Maintenance Crew Supervisor III

3556SM Maintenance Crew Supervisor IV

3346SM Maintenance Supervisor, Harbor

0246SM Managing Appraiser

0603SM Managing Assessment Technician

7870SM Managing Auditor-Appraiser

9031SM Medical Procurement Supervisor I

9033SM Medical Procurement Supervisor II

7112SM Mental Health Service Coordinator

4719SM Nutrition Clinic Supervisor

0528SM Office Manager

0512SM Office Supervisor A

0514SM Office Supervisor B

0521SM Office Supervisor C

0523SM Office Supervisor D

3032SM Park Maintenance Supervisor I

3038SM Park Maintenance Supervisor II

~~2116SM~~ ~~Planner IV~~

7010SM Program Assistant, SSA

4723SM Public Health Nutritionist I (Supervisory)

3570SM Public Works Maintenance Supervisor I

3569SM Public Works Maintenance Supervisor I, Vegetation

1120SM Publishing Services Supervisor

~~2522SM~~ ~~Regional Branch Librarian~~

9115SM Retirement Administrative Services Supervisor

0864SM Retirement Benefits Program Supervisor

0827SM Retirement Benefits Supervisor

7810SM Senior Accountant/Auditor I

0823SM Senior Accounting Office Supervisor I

0824SM Senior Accounting Office Supervisor II

5020SM Senior Agricultural/Standards Inspector

0242SM Senior Appraiser

0601SM Senior Assessment Technician

7864SM Senior Auditor-Appraiser

~~2520SM~~ ~~Senior Branch Librarian~~

5325SM Senior Building Inspector

1819SM Senior Civil Engineer

0554SM Senior Civil Process Supervisor

3382SM Senior Communications Technician

4165SM Senior Comprehensive Care Nurse

7993SM Senior Computer Forensic Examiner

7455SM Senior Correctional Farm Supervisor  
 7453SM Senior Correctional Services Technician  
 6517SM Senior Defense Investigator  
 1860SM Senior Engineering Geologist  
 1821SM Senior Environmental Resources Specialist  
 8367SM Senior Epidemiologist  
 3154SM Senior Equipment Welder  
 3924SM Senior Forensic Assistant  
 3937SM Senior Forensic Scientist  
 1638SM Senior Head Cook  
 2153SM Senior Housing Specialist  
 7977SM Senior Information Technologist  
 7991SM Senior IT Applications Developer  
 7988SM Senior IT Business Analyst  
 7981SM Senior IT Database Administrator  
 7963SM Senior IT Network Engineer  
 7985SM Senior IT Security Administrator  
 7967SM Senior IT Systems Engineer  
 3807SM Senior Laboratory Assistant  
0586SM Senior Law Office Supervisor  
1719SM Senior Land Surveyor  
     4924SM                      Senior Landscape Architect  
     0555SM                      Senior Law Office Supervisor—District Attorney  
7454SM Senior Legal Property Technician  
0524SM Senior Office Supervisor (A/B)  
0526SM Senior Office Supervisor (C/D)  
3026SM Senior Parks Animal Keeper  
2116SM Senior Planner  
1843SM Senior Professional Engineer/Architect  
 1937SM Senior Project Manager  
 0330SM Senior Real Property Agent  
 8372SM Senior Research Analyst  
6123SM Senior Sheriff's Community Services Officer  
 7068SM Senior Social Services Supervisor  
 7093SM Senior Staff Development Specialist  
 0927SM Senior Storekeeper  
 1893SM Senior Telecommunications Engineer  
 3560SM ~~Senior Vegetation and Pest Control Technician~~  
3560SM Senior Integrated Pest Management Technician  
 0496SM Sheriff's Records Supervisor  
 6114SM Sheriff's Special Officer III  
3351SM Sheriff's Supervising Helicopter Mechanic-Inspector  
 7020SM Social Services Supervisor I  
 7021SM Social Services Supervisor II  
 0844SM SSA Accounting Unit Supervisor  
 0921SM Storekeeper I  
 0925SM Storekeeper II  
5906SM Supervising Animal Care Attendant

5913SM Supervising Animal Control Officer  
5918SM Supervising Animal Control Services Representative  
5328SM Supervising Building Inspector  
1790SM Supervising Cadastral Technician  
6522SM Supervising Child Support Specialist  
0362SM Supervising Collection Officer  
3377SM Supervising Communications Coordinator  
3386SM Supervising Communications Technician  
4169SM Supervising Comprehensive Care Nurse  
5362SM Supervising Construction Inspector  
1448SM Supervising Custodian I  
1450SM Supervising Custodian II  
0370SM Supervising Deputy Public Administrator  
0374SM Supervising Deputy Public Guardian  
1725SM Supervising Engineering Technician I  
1730SM Supervising Engineering Technician II  
1734SM Supervising Engineering Technician III  
5119SM Supervising Environmental Health Specialist  
0384SM Supervising Estate Administration Specialist  
1421SM Supervising Fee Station Attendant  
3303SM Supervising Fleet Technician  
3959SM Supervising Forensic Specialist  
5143SM Supervising Hazardous Materials Specialist  
~~5906SM Supervising Kennel Attendant~~  
3589SM Supervising Maintenance Inspector/Specialist  
3394SM Supervising Plant Operating Engineer  
9111SM Supervising Procurement Contract Specialist  
3890SM Supervising Public Health Microbiologist  
4188SM Supervising Public Health Nurse I  
4189SM Supervising Public Health Nurse II  
4725SM Supervising Public Health Nutritionist  
0696SM Supervising Radio Dispatcher  
0518SM Supervising Recordable Documents Examiner  
4320SM Supervising Therapist, California Children Services  
7215SM Supervising Veterans Claims Representative  
8389SM Supervising Waste Inspector  
3927SM Supervisor, Forensic Operations  
0907SM Supplies Assistant, Juvenile Facilities  
~~1746SM \_\_\_\_\_ Survey Party Chief~~  
1718SM Surveyor III  
4338SM Therapy Consultant, California Children Services  
3028SM Zoo Curator

DEAL POINTS  
 FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE  
 COUNTY OF ORANGE  
 AND  
 ORANGE COUNTY EMPLOYEES ASSOCIATION  
 ALL BARGAINING UNITS  
 OCTOBER 8, 2019

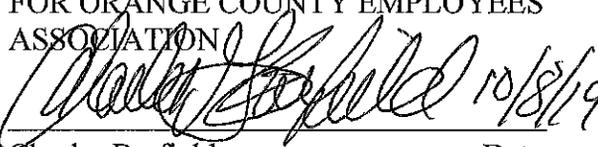
<b>Contract Term</b>	Date of Board of Supervisors Adoption – June 29, 2023
<b>Salary</b>	<ul style="list-style-type: none"> <li>- Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, increase salary schedule by 2.5%.</li> <li>- Effective July 3, 2020, the salary schedules will be increased by 2.5%.</li> <li>- Effective July 2, 2021, the salary schedules will be increased by 2.5%.</li> <li>- Effective July 1, 2022, the salary schedules will be increased by 3.50%.</li> </ul>
<b>Retirement Contributions – Reverse Pickup</b>	<ul style="list-style-type: none"> <li>- Effective the first day of the first full pay period after Board of Supervisors adoption reduce reverse pickup by 1.2%.</li> <li>- Effective July 3, 2020, reduce reverse pickup by 1.2% (to a fixed reduction of 2.4%).</li> <li>- Effective July 2, 2021, reduce reverse pickup by 1.2% (to a fixed reduction of 3.6%).*</li> </ul> <p><i>*Eliminate the entire Reverse Pickup for PEPRAs employees and Classic 1.62% @ 65 employees by July 2, 2021.</i></p>

<b>Annual Leave – Convert from Annual Leave to Healthcare/Vacation Leave</b>	Effective as soon as practicable following Board of Supervisors adoption of the MOU, the parties agree to transition OCEA employees from accruing Annual Leave (AL) to accruing Healthcare Leave and Vacation Leave per agreed upon terms.
<b>Retiree Medical Grant</b>	The County and OCEA agree to a reopener to facilitate the transition of OCEA members from the County’s Retiree Medical Grant into an OCEA managed Retiree Medical Trust (RMT) which will be a Volunteer Employee Benefit Association (VEBA) formed pursuant to Internal Revenue Code Section 501(c)(9) under agreed upon conditions.
<b>Defined Contribution Retirement Plan</b>	The County and OCEA agree to a reopener to facilitate the automatic enrollment of new hire OCEA members in the appropriate County Deferred Compensation plan.
<b>Tuition Reimbursement</b>	Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, the annual tuition reimbursement maximum shall be \$10,000 per fiscal year.
<b>Bereavement Leave</b>	Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, eligible employees may use paid bereavement leave for the death of a family member, subject to the terms and conditions of Article IV, Section 2 (Bereavement Leave).
<b>Boots</b>	Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, the parties agreed to: <ul style="list-style-type: none"> <li>- Add two additional classifications as eligible for safety boot reimbursement;</li> <li>- Form a working group to identify other possible classifications and/or positions that may be eligible for safety boot reimbursement; and</li> <li>- Provide department heads, in conjunction with Risk Management, discretion to provide safety boot reimbursement to additional classifications and/or positions</li> </ul>

	for the first year of the contract per the agreed upon terms.
<b>Training Assignment Pay</b>	Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, Sheriff's Community Services Officers shall be paid one (1) dollar per hour for all hours assigned to train a new Community Services Officer.
<b>Leave Provisions</b>	The parties agree to establish a working group to revise existing leave provisions.
<b>Clean Up Language</b>	Address administrative changes, which have occurred during the term of the contract.
<b>Other Contract Provisions</b>	The parties agree upon other non-economic provisions, which are set forth in the proposed MOU including; workweek schedule for Sheriff's Department classifications assigned to custody or field operations, clarification of leave for attendance at professional conferences, clarification of pay for work on holidays, and establishing a workgroup to discuss child/dependent care and work-life balance.

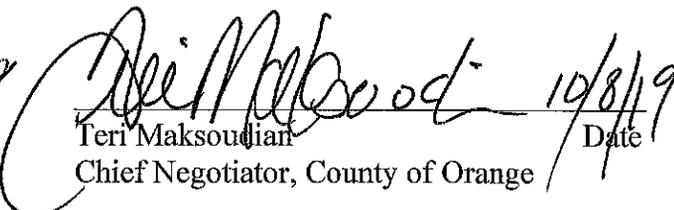
The signatures below indicate the parties have reached a tentative agreement on the foregoing subjects. This is an abbreviated version of the tentative agreement agree to by the parties. This document does not and is not intended to set out the tentative agreements agree upon in their entirety and does not supersede previously agreed-upon tentative agreements. Final agreement is dependent upon drafting of specific contract language and ratification by OCEA and adoption by the County's Board of Supervisors.

FOR ORANGE COUNTY EMPLOYEES  
ASSOCIATION

  
Charles Barfield  
General Manager, OCEA

Date

FOR THE COUNTY OF ORANGE

  
Teri Maksoudian  
Chief Negotiator, County of Orange

Date



## County Executive Office

### Memorandum

October 16, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer *for Maguire*

Subject: Exception to Rule 21

RECEIVED  
2019 OCT 17 PM 3:50  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

*S31D*

The County Executive Office is requesting a Supplemental Agenda Staff Report for the October 22, 2019, Board Hearing.

Agency: County Executive Office

Subject: Approve 2019-2023 Memorandum of Understanding with the Association of County Law Enforcement Managers for the Law Enforcement Management Unit

Districts: All Districts

**Reason for supplemental:** The County Executive Office is requesting that this item be added to the October 22, 2019, Board agenda as a Supplemental Item as the County and the Association of County Law Enforcement Managers reached a tentative agreement for a successor Memorandum of Understanding (MOU). In order to avoid any delay in ratifying the terms and conditions of the successor MOU, Human Resource Services respectfully requests to have this item placed on the Board agenda for October 22, 2019. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:   
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors  
County Executive Office  
County Counsel



### SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

**MEETING DATE:** 10/22/19  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office  
**DEPARTMENT HEAD REVIEW:** Tom Hatch  
*Department Head Signature*  
**DEPARTMENT CONTACT PERSON(S):** Tom Hatch (714) 834-2836  
 Colette Farnes (714) 834-2247

RECEIVED  
 2019 OCT 17 PM 3:50  
 CLERK OF THE BOARD  
 ORANGE COUNTY  
 BOARD OF SUPERVISORS

**SUBJECT:** Approve 2019-2023 Memorandum of Understanding with the Association of County Law Enforcement Managers for the Law Enforcement Management Unit

**CEO CONCUR**

**COUNTY COUNSEL REVIEW**

**CLERK OF THE BOARD**

M. Quinn  
*CEO Signature*

Approved as to Form  
*Action*  
Jamie A. Shade  
*County Counsel Signature*

Discussion  
3 Votes Board Majority

Budgeted: N/A

**Current Year Cost:** See Financial Impact Section

**Annual Cost:** See Financial Impact Section

**Staffing Impact:** No

**# of Positions:** N/A

**Sole Source:** N/A

**Current Fiscal Year Revenue:** N/A

**Funding Source:** See Financial Impact Section

**County Audit in last 3 years:** No

**Prior Board Action:** N/A

**RECOMMENDED ACTION(S):**

Approve and adopt the 2019-2023 Memorandum of Understanding between the County of Orange and the Association of County Law Enforcement Managers for the Law Enforcement Management Unit for the period June 21, 2019, through June 29, 2023.

**SUMMARY:**

Approval and adoption of the 2019-2023 Memorandum of Understanding between the County of Orange and the Association of County Law Enforcement Managers for the Law Enforcement Unit will ratify the terms and conditions of employment.

## **BACKGROUND INFORMATION:**

The Association of County Law Enforcement Managers (ACLEM) represents approximately 91 employees in four different classifications: Lieutenant; Captain; Investigative Commander, District Attorney; and Assistant Chief Investigator, District Attorney.

On July 3, 2019, representatives from the County and ACLEM commenced the meet and confer process to negotiate a successor agreement to the 2018-2019 Memorandum of Understanding (MOU). Over the next three months, the parties met on two more occasions and collaboratively arrived at a tentative agreement on October 2, 2019, on the proposal under consideration by your Honorable Board of Supervisors (Board).

This agreement reflects the Board's desire to maintain a competitive standing among comparable law enforcement agencies for recruitment and retention purposes.

A summary of the more significant deal points in the 2019-2023 MOU include:

### **Term**

June 21, 2019, through June 29, 2023.

### **Wages**

- Effective the first day of the first full pay period following Board of Supervisors adoption of the MOU, the salary schedules will be increased by 3.5 percent.
- Effective July 3, 2020, the salary schedules will be increased by 3.5 percent.
- Effective July 2, 2021, the salary schedules will be increased by 3.5 percent.
- Effective July 1, 2022, the salary schedules will be increased by 3.5 percent.

### **Medical Insurance Trust Fund**

- Effective July 2, 2021, the County shall contribute \$1,493 per month for each full-time enrolled, regular, limited-term and probationary employee on paid status in this unit.
- Effective July 1, 2022, the County shall contribute \$1,591 per month for each full-time enrolled, regular, limited-term and probationary employee on paid status in this unit.

### **Education and Professional Reimbursement (EPRP)**

Effective the first day of the first full pay period following Board adoption of the MOU, add language to the MOU to reflect existing EPRP benefits as described in the Personnel and Salary Resolution (2007 Update) and increase the maximum allowance from \$3,000 to \$10,000 per fiscal year.

### **Premium Pay**

- Night Shift Differential - Effective the first day of the first full pay period following Board adoption, change Night Shift Differential eligible hours from 6:00 p.m. to 6:00 a.m. for employees assigned to night shift, as determined by the Department Head.
- Special Pay Assignment - Effective the first day of the first full pay period following Board adoption, Special Pay Assignment will expand to include special assignments for Lieutenants.

### **Vacation**

Effective as soon as practicable following Board adoption of the MOU, employees with Annual Leave balances and 10 years of continuous full-time service may use a maximum of 80 vacation hours each fiscal year for approved time off.

### **Bereavement Leave**

Effective the first day of the first full pay period following Board adoption of the MOU, eligible employees may use paid bereavement leave for the death of a family member. Generally, the time off shall be taken in whole day increments (partial day absences may be approved upon request if operationally feasible), may be taken nonconsecutively and must be used within six months of the loss.

### **Optional Benefit Plan**

Employees will no longer be able to use the Optional Benefit Plan for payment of premiums for Accidental Death and Dismemberment Insurance beyond Plan Year 2020 or as soon thereafter as administratively feasible.

### **Miscellaneous**

The proposed MOU includes various modifications to other areas of the contract including extending the probationary period of an employee while on paid Administrative Leave, tolling grievance timelines when allegations of Equal Employment Opportunity violations are involved, grievance resolution if arbitration is not calendared within 365 days, clarification on holiday pay and additional administrative matters.

### **FINANCIAL IMPACT:**

The estimated total cost incurred over the term of the MOU is \$8.9M, \$7.3M of which is Net County Cost (NCC). \$529K (\$432K NCC) will occur in FY 2019-20; \$1.7M (\$1.4M NCC) will occur in FY 2020-21; \$2.8M (\$2.3M NCC) will occur in FY 2021-22; and \$3.9M (\$3.2M NCC) will occur in FY 2022-23.

### **STAFFING IMPACT:**

N/A

### **ATTACHMENT(S):**

Attachment A – 2019-2023 Association of County Law Enforcement Managers MOU  
Attachment B – 2019-2023 Association of County Law Enforcement Managers MOU (redlined version)  
Attachment C – October 2, 2019, Signed Deal Points

TENTATIVE AGREEMENT 10/2/2019

# MEMORANDUM OF UNDERSTANDING

LAW ENFORCEMENT  
MANAGEMENT UNIT

2019 - 2023

COUNTY OF ORANGE  
AND  
ASSOCIATION OF COUNTY LAW  
ENFORCEMENT MANAGERS

MEMORANDUM OF UNDERSTANDING  
2019 - 2023  
COUNTY OF ORANGE  
AND  
ASSOCIATION OF COUNTY LAW ENFORCEMENT MANAGERS  
FOR THE  
LAW ENFORCEMENT MANAGEMENT UNIT

This Memorandum of Understanding adopted by the Board of Supervisors sets forth the terms of agreement reached between the County of Orange and the Association of County Law Enforcement Managers as the Exclusively Recognized Employee Organization for the Law Enforcement Management Unit for the period beginning June 21, 2019 through June 29, 2023. Unless otherwise indicated herein, all provisions shall become effective October 25, 2019.

PREAMBLE

Recognition

Pursuant to the provisions of the Employee Relations Resolution of the County of Orange and the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), the Association of County Law Enforcement Managers, hereinafter referred to as ACLEM, was re-certified on May 14, 2014, as the Recognized Employee Organization for the Law Enforcement Management Unit with respect to wages, hours and other terms and conditions of employment. The County hereby recognizes ACLEM as the exclusive representative of employees in this unit.

## 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:

ASSOCIATION shall mean the Association of County Law Enforcement Managers

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

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

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, but shall not constitute a break in continuous service.

COUNTY shall mean the County of Orange.

DEPARTMENT shall mean the County of Orange Sheriff-Coroner Department or District Attorney Office.

DEPARTMENT HEAD shall mean the Sheriff-Coroner or District Attorney or their designees.

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.

EXEMPT EMPLOYEE shall mean a regular, limited-term or probationary employee who is designated as Executive, Administrative or Professional per the provisions of the Fair Labor Standards Act.

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.

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.

OFFICIAL PERSONNEL FILE shall mean the department and/or Human Resources file of personnel records maintained on each employee.

PART-TIME EMPLOYEE shall mean an employee employed in one (1) 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 unforeseen 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 shall mean 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 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.

REDUCTION IN CLASS 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 lower than the maximum step of the old salary range.

REDUCTION IN SALARY shall mean the movement of a regular or limited-term employee from one (1) step on the salary range for a class to a lower step on the salary range for the same class.

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 unless the context herein indicates otherwise.

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

## ARTICLE I WORK PERIOD AND PREMIUM PAY

### Section 1. Work Period and Work Week

- A.
1. For Law Enforcement Managers the official work period shall be 28 days and shall begin at 12:00 a.m. on each Friday and end at 12:00 a.m. four weeks later.
  2. Law Enforcement Management employees are not governed by the customary forty (40) hour workweek and may be expected to work more than forty (40) hours in a given work week pursuant to the specific dictates of the assignment. On occasion, employees may work less than a full workweek if the nature of the assignment so dictates and the employee has either received permission from his/her supervisor to do so or the employee uses appropriate leave time. The Department Head shall regulate the work schedule based on the needs of the County with due regard to maintaining reasonable and equitable work schedules for all employees.
- B. If any Law Enforcement Management employee is required to work an unusually large number of hours as a result of natural disasters and/or officially declared emergencies such as floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances, the Department Head may authorize additional compensation for such an employee or group of employees whom the Department Head determines should receive additional compensation. The rate of such compensation shall not exceed the employee's regular biweekly pay rate.
- C. Employees shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed for each full pay period worked as determined by Article I, Section 1.A.
- D. Notwithstanding any other provisions contained herein, ACLEM employees declared by the Chief Human Resources Officer to be exempt from the Fair Labor Standards Act shall not be docked salary for partial day absences as long as that exempt status continues to apply and as long as the Fair Labor Standards Act is applicable to the County.

### Section 2. Premium Pay

#### A. Night Shift Differential

1. An employee who works an assigned night shift as determined by the Department Head, 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 6 p.m. and 6 a.m.
3. The rate of night shift differential shall be five (5) percent of one-eighth (1/8) of the biweekly rate.

#### B. Bilingual Pay

1. Qualified employees who meet the following criteria shall receive thirty (30) cents per hour for each hour worked.
  - a. An employee must be assigned by Department management to speak or translate a language in addition to English. This may include 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 Chief Human Resources Officer, or his/her designee.

#### C. Special Assignment Premium

1. The District Attorney may authorize a five (5) percent premium for Commanders and Assistant Chiefs functioning in specialty assignments which have significant responsibility for the management and coordination of countywide regional or federal programs.
2. The Sheriff-Coroner may authorize a five (5) percent premium, based on assignment and performance, for Lieutenants functioning in assignments with significant responsibility for the management and coordination of personnel and resources in support of specialized units, programs, initiatives, or law enforcement contracts.

## ARTICLE II PAY PRACTICES

### Section 1. Compensation for Employees

The Law Enforcement (LM) Salary Schedule includes only two (2) steps: Probationary and Non-Probationary.

The LM Salary Schedule reflected below was effective January 4, 2019:

Law Enforcement Management - Sheriff Salary Schedule				Law Enforcement Management - District Attorney Salary Schedule			
Pay Rate		Probationary	Non-Probationary	Pay Rate		Probationary	Non-Probationary
LM-1	Hourly	\$77.42	\$80.94	LM-1A	Hourly	\$84.52	\$86.54
	Biweekly	\$6,193.60	\$6,475.20		Biweekly	\$6,761.60	\$6,923.20
	Monthly	\$13,419.47	\$14,029.60		Monthly	\$14,650.13	\$15,000.27
	Annually	\$161,033.60	\$168,355.20		Annually	\$175,801.60	\$180,003.20
		Probationary	Non-Probationary			Probationary	Non-Probationary
LM-2	Hourly	\$89.05	\$93.10	LM-2A	Hourly	\$90.86	\$93.10
	Biweekly	\$7,124.00	\$7,448.00		Biweekly	\$7,268.80	\$7,448.00
	Monthly	\$15,435.33	\$16,137.33		Monthly	\$15,749.07	\$16,137.33
	Annually	\$185,224.00	\$193,648.00		Annually	\$188,988.80	\$193,648.00

- A. Effective the first day of the first full pay period following adoption of this Memorandum of Understanding by the Board of Supervisors, the unadjusted base salary rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.
- B. Effective July 3, 2020, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.
- C. Effective July 2, 2021, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.
- D. Effective July 1, 2022, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

### Section 2. Pay for New Employees

A new employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the new employee is hired.

### Section 3. Salary on Promotion

A newly promoted employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the employee is promoted.

### Section 4. Salary on Reduction in Class

#### A.

1. When a 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 Department Head is reduced to a class not previously occupied by the employee, the employee shall be placed in the Probationary step for the lower class and shall receive a new probationary period.
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 Department Head is reduced to a class the employee occupied in good standing, the employee shall be placed in the Non-Probationary step for the lower class.

B. When a regular or limited-term regular employee is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief Investigative Commander to D.A. Investigative Commander), by demotion for reasons of unsatisfactory performance, the employee's salary shall be reduced to the Non-Probationary step on the salary range.

C. When a regular or limited-term employee in good standing is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief Investigative Commander to D.A. Investigative Commander), for reasons other than unsatisfactory performance, the employee shall be reduced to the Non-Probationary step in the lower class.

D. When a regular, limited-term or probationary employee is reduced as the result of a position reclassification, 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 each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class. Each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range of the new class.
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 to the Non-Probationary step of the new class.

#### Section 5. Salary on Reclassification

- A. The salary of a regular, limited-term or probationary employee whose position is reclassified shall be determined as follows:
  1. If the position is reclassified to a class with the same salary range, the employee's salary, and probationary status remain the same as in the former class.
  2. If the position is reclassified to a class with a higher or lower salary range, each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class and each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range in the new class.

## Section 6. 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 Chief Human Resources Officer, be appointed at the same Probationary or Non-Probationary step the person held prior to separation, but no higher than the step the person received at the time of separation.
- 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 or other reasons authorized by law and may be appointed to the position at an hourly rate not to exceed 80% of the hourly rate that the employee earned at the time of retirement.

## Section 7. Changes in Salary Allocation

If a class is reassigned to a higher or lower salary step, each Probationary employee in the class shall be compensated at the new Probationary step. Each Non-Probationary employee in the class shall be compensated at the new Non-Probationary step.

## ARTICLE III GENERAL PERSONNEL PROVISIONS

### Section 1. Probation

#### A. New Probation

##### 1. Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) 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 in a part-time regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

#### B. Promotional Probation

1. A full or part-time employee who is promoted shall be placed on promotional probation and shall serve a probation period of fifty-two (52) weeks from the date of promotion ending with the first day of the pay period following completion of said period. A part-time employee shall serve a promotional probation period for 2080 hours ending with the first day of the pay period following completion of said period.
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 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.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

## C. Failure of Probation

### 1. New Probation

An employee on new probation may be released at the sole discretion of the Department at any time without right of appeal or hearing except that where an employee alleges his or her release was the result of discrimination by the County in violation of Article XVII, NONDISCRIMINATION or alleged misconduct (to the extent covered by the Public Safety Officers Procedural Bill of Rights Act (POBR)), the employee may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt by the employee of notice of failure of new probation.

### 2. Promotional Probation

- a. To the extent permitted by law, an employee on promotional probation may be failed at the sole discretion of the Department at any time without right of appeal or hearing.
- b. 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 class for the purpose of training for a promotion to a higher class.
- c. 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 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.

## 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.C., 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 the 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, except as provided in Section 1.E.1. and 2. of this Article, below, and an employee who is permitted by the Department to work beyond the end of a probation period shall be deemed to have passed such probation period.

#### E. Extension of Probation Periods

1. The granting of an Official Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended period resulting from the Official 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 the suspension, with the extended probation period ending with the first day of the pay period after said extended date.
2. A new or promotional probationary employee who is on paid Administrative Leave shall have his or her probationary period extended by the length of the leave. If the extended probationary period ends in the middle of a pay period, the probationary period shall be extended to conclude on the final day of that pay period.
3. The Chief Human Resources Officer 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.
4. Upon recommendation of the Department or request of the employee with concurrence of the Department, the probation period of an employee may be extended at the sole discretion of the Chief Human Resources Officer for a period not to exceed one hundred eighty (180) calendar days provided such action is approved by the Chief Human Resources Officer before the normal probation period is completed.

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

5. The Chief Human Resources Officer shall extend the probationary 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. 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 destroyed pursuant to an agreement between the Chief Human Resources Officer 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 3. 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 Department Head shall become a limited-term regular employee.

- C. All limited-term employees who transfer to permanent funded positions shall serve a new probation period. Limited-term regular employees who transfer to permanent positions shall maintain their original hire date for purposes of vacation and sick leave, or annual leave accrual, retirement and layoff.
- 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 Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Department Head shall make such an order in writing prior to the date of transfer or promotion.

#### Section 4. 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. In such a case the employee shall be reassigned within five (5) working days.
- B. The 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 nine (9) months. Temporary promotions which are being used to dual-fill for an employee on leave of absence shall be limited to one year.
- 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 Department.

#### Section 5. 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.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:
1. a person appointed to a regular position in the County service shall be removed from the list;
  2. a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;
  3. a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

Section 6. 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 7. 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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) agency/department to another.

## ARTICLE IV LEAVE PROVISIONS

The County may reopen negotiations on this Article for the purpose of clarifying and streamlining language for understandability.

### Section 1. Sick Leave

#### A. Accumulation of Sick Leave

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. 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).
3. 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).
4. 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.

#### 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. Medical and dental office appointments when absence during working hours for this purpose is authorized by the Department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband,

registered domestic partner, child, stepchild, grandchild, grandparent, legal guardian or any other relationship as required by law.

5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member;; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days or 24 hours per year, whichever is greater. For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

The first three (3) days or 24 hours, whichever is greater, of paid sick leave taken each 12 month period will be considered sick leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

7. 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 Department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
  - d. Except as prohibited by law upon the employee's return to work, the employee must furnish the Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
8. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.

9. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

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., B.5., or B.6., above.
2. Absences which occur on a County holiday.

D. General Provisions

1. Except as prohibited by law, 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 when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
2. Employees hired on or after July 15, 1977 shall not be eligible for any payoff of sick leave. Employees hired before July 15, 1977 are eligible for sick leave payoff under the following conditions:
  - a. Upon paid County 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.2.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.2.a.
3. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the Department, apply the period of previous County continuous service for the purpose of determining sick leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring to the extent required by law.
4. Notwithstanding any other provision of this Memorandum of Understanding, if an employee is killed in the line of duty, the employee's estate shall be paid for one hundred (100) percent of the employee's unused Sick Leave.

## Section 2. Bereavement Leave

Bereavement leave is paid leave which is available to an employee related to the death of a member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, civil-union partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed forty (40) hours for each death and employees who are in part-time paid status shall receive time off with pay, not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death.
- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.

- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. Departmental Leave

Upon request, a regular, limited-term or probationary employee may be granted a 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 department except in cases where Official Leave has been authorized pursuant to Sections 10, 11 and 15, below. The Department Head may require that all accumulated compensatory time be used prior to granting of Departmental Leave. If the leave qualifies as Family Leave pursuant to applicable law, the Department Head may require that all sick leave, compensatory leave, vacation time and/or annual leave be used prior to granting Departmental Leave except that the use of sick leave shall be subject to the provisions of Article III, Sections 1.C and D above. The use of earned vacation or annual leave prior to the obtaining of 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., below. Such Leave may be taken only after an employee's completion of a Departmental Leave provided that granting of a Departmental Leave shall not be a prerequisite to a request for Official Leave. The Department may require that all or a portion of compensatory time, vacation or annual leave be used prior to granting such Leave.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of the 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 Department denies the extension of such Leave, the provisions of subsection 5. below, shall not apply.
3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law, shall be granted Official Leave to the extent required by such law. Such leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, sick leave or annual leave have been used:

- b. When Official Leave is used for all other reasons – after all accumulated compensatory time and vacation accruals or not more than 100 hours of annual leave have been applied toward the absence. The use of annual leave beyond 100 hours shall be at the discretion of the employee, subject to the Annual Leave provisions.
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 two (2) weeks' notice prior to the date he or she wants to return to work, the Department shall not be required to return the employee to work until the employee gives such notice; however, the Department may waive the notice or reduce the notice period at its discretion.
5. Except as to leave which must be granted pursuant to Sections 10, 11 and 15 of this Article, the Department shall indicate on the request its decision as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Chief Human Resources Officer. He or she shall deliver a copy to the Auditor-Controller and the employee. If the 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 Chief Human Resources Officer. The Chief Human Resources Officer shall review the request and make a decision within seven (7) calendar days. The decision of the Chief Human Resources Officer on such appeals shall be final.
6. An Official Leave shall not be deemed a break in County service but such 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 Chief Human Resources Officer 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 department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

### Section 4. Official Leave for Non-occupational 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 non-occupational 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 sick leave, compensatory, vacation time, and annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee shall request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, an employee shall not be entitled to more than one (1) such Leave per twelve (12) month period.

#### Section 5. Absences Caused by Medical Conditions

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to medical condition, 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 provisions set forth in Article I.

#### Section 7. Witness Leave Not Related to Employment

A regular, limited-term or probationary employee who is called to answer a subpoena, which is not related to employment, 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 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 ACLEM Business

- A. The County shall allow an employee up to five (5) working days absence without pay during each payroll year for the term of this Agreement to perform official ACLEM business, provided that:
1. ACLEM shall make such a request to the employee's Department Head at least ten (10) days in advance.
  2. ACLEM shall not request that such Leave be effective for more than four (4) employees on any workday.
  3. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

Section 9. Absence Without Authorization

- A. Absence without authorization, whether voluntary or involuntary, for three (3) consecutive working days shall be considered an automatic resignation from County employment as of the last date on which the employee worked or the last date 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 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, the date the County plans to take this action and its effective date as determined by A., above;
  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 date the County plans to accept and enter 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 date the County plans to accept and enter the automatic resignation; 2) provides an explanation satisfactory to the Department as to the cause of the unauthorized absence, the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons; and 3) is found by the 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 Department determines it is appropriate to use sick leave, compensatory time, vacation, annual leave 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 10. 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 legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is within six (6) months before or after the expected date of birth or legal adoption of the child.
  2. Sufficient documentation of such birth or legal adoption is submitted with the request for Leave.

3. Such employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours.
  4. All accrued vacation and compensatory time and the portion of 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 must be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article or Section 2.1.a of Article VI - Annual Leave provided the employee has furnished the 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 Non-occupational 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 11. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XII, Section 1.B., a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave upon exhaustion of 4850 benefits.
- B. Workers' Compensation Leave shall continue until the employee:
  1. is determined to be physically able to return to work by a County-designated physician;
  2. is determined to be physically able to return to work with medical restrictions which the Department can accept;
  3. accepts employment outside the County;
  4. accepts employment in another County position;
  5. is retired pursuant to appropriate Government Code provisions.

- C. An employee on Workers' Compensation Leave and/or 4850 Leave must 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 Department shall not be required to return the employee to work until such notice is given; however, the Department may waive the notice or reduce the notice period at its discretion.
- D. If an employee's Workers' Compensation Leave or 4850 Leave expires and the employee is absent without authorization, the provisions of Section 9. of this Article shall apply.
- E. For employees on Workers' Compensation Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

#### Section 12. ACLEM 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 ACLEM for the term of this Memorandum of Understanding provided that:
  - 1. The Presidential Leave shall be a minimum of eight (8) hours.
  - 2. The Presidential Leave is requested fourteen (14) calendar days in advance. Said notice may be waived by mutual agreement.
  - 3. ACLEM promptly reimburses the County for all ACLEM President salary expenses incurred during the Presidential Leave.
  - 4. ACLEM promptly reimburses the County for all benefit expenses incurred during the Presidential Leave.
  - 5. The employee shall continue to conform to the Department rules and regulations that are not inconsistent with Presidential Leave.
  - 6. There is not a compelling need for the employee to perform County work.
  - 7. The employee's performance meets standards.
  - 8. When the duration or frequency of Presidential Leave is such that the employee's absence imposes a hardship on Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, sick leave, and annual leave accrual rates will apply to the employee as though he or she were on duty status.

- C. The probation period, if applicable, shall be extended by the length of Presidential Leave. The extended probation period shall end on the first day of the pay period following said date.
- D. The employee's eligibility for promotional examinations shall not be affected by Presidential Leave.
- E. In the event emergency recall of employee becomes necessary, Presidential Leave may be suspended or cancelled during the course of the emergency. ACLEM shall not be obligated for reimbursement cost listed in A.3. and A.4 above, for the period that Presidential Leave is suspended or cancelled. The provisions of A.1. through A.8., above, shall be suspended during said emergency recall.
- F. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

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

### Section 14. Family Leave

#### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the California Family Rights Act (CFRA). Unless otherwise provided by this Section, "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.
2. Family leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability due to pregnancy, childbirth or related medical conditions;
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement;

- d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child);
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces;
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or "next of kin" who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
3. Employees must request and identify their need for Family Leave. The County and ACLEM agree that certain other types of leave available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
  4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
  5. Family Leave shall not exceed twelve (12) work weeks for situations covered by Subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
  6. Leave taken under the FMLA for disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act. A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
  7. When a request for Family Leave is approved, the Department shall determine whether sick leave, compensatory, vacation time and/or annual leave is to be applied. Such determination shall be consistent with other leave provisions of this Agreement. Regardless of the determination an eligible employee may choose to substitute sick leave, vacation, annual leave or compensatory time for unpaid Family Leave. Paid leave will run concurrently with unpaid Family Leave when taken for an FMLA/CFRA qualifying event.

## B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the 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 such 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 Department operations.

## C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered service member who is a child, spouse, parent, registered domestic partner, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active or called to active duty in a foreign country with the dates of active duty services. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

ARTICLE V      VACATIONSection 1. Accumulation of Vacation

- A. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
- B. During the first three (3) years of employment, a full-time employee in a regular or limited-term position 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). Part-time employees will earn vacation on a pro-rated basis. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to 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. 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 .077 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred sixty [160] 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 vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- D. 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 .0962 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately two hundred [200] hours per year), under the same terms and conditions as for the prior rate of accrual.
- E. 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) hours shall be determined. That 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 employee shall in addition earn .0193 hours of vacation for each hour of pay during his or her regularly scheduled workweek. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- F. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with less than ten (10) years of full-time

continuous service shall be three hundred sixty (360) hours or a prorated amount equal to nine (9) weeks of vacation for part-time employees. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with ten (10) or more years of full-time continuous service shall be four hundred eighty (480) hours and a prorated amount equal to twelve (12) weeks of vacation for part-time employees. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## 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. Effective as soon as practicable following adoption of the MOU, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 hours) may elect to use a maximum of eighty (80) vacation hours during the fiscal year for approved time off.
- C. An Official Leave of Absence shall cause the aforementioned ten (10) years (Article IV, Section 1.D.) of full-time County service to be postponed a number of calendar days equal to the Official Leave.
- D. 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 IV, Section 1.D.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- E. Additional vacation earned during the period of vacation may be taken consecutively.
- F. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- G. Vacations shall be scheduled for employees by their Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- H. No scheduled vacation will be cancelled except in cases of emergency.
- I. Illness while on paid vacation will be charged to sick leave rather than vacation only under the conditions specified in Article III, Section 1.B.5.
- J. 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 an Election Board Officer or Election Night Help.

K. 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.

L. Vacation Cash Out Where Employee Has No Annual Leave Balances

During each fiscal year, an employee who does not have annual leave balances may request to be paid for accrued vacation in either one increment or two (2) separate increments. An employee who, through a cash out of annual leave, depletes all annual leave, shall be permitted to cash out vacation leave in the same fiscal year as the year annual leave is depleted up to no more than an aggregate total of 120 hours of vacation and annual leave in the fiscal year. In all other cases in which an employee does not have annual leave balances, the employee may be paid for no more than ninety (90) hours under the following circumstances:

1. If an employee has 390 or less accrued hours of vacation, the employee shall be permitted to cash out up to ninety (90) hours of vacation leave for the fiscal year. Payment shall be made upon request unless the Agency/Department determines it is not economically and/or operationally feasible.
2. If at any time during a fiscal year an employee has more than 390 hours of accrued vacation hours, the employee shall be permitted to cash out up to ninety (90) hours of the allowed annual cash out of vacation leave for the year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

M. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave Balances

During each fiscal year, an employee who has annual leave balances may request to be paid for accrued annual leave in either two (2) separate increments equaling an aggregate total of one-hundred (120) hours or one (1) increment of no more than one hundred twenty (120) hours under the following circumstances:

1. An employee with over 750 hours of accrued annual leave shall be permitted to cash out one-hundred and twenty (120) hours of annual leave in a fiscal year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

2. An employee with 750 or less hours of accrued annual leave shall be permitted to cash out sixty (60) hours of annual leave in a fiscal year upon request. The employee may cash out up to an additional sixty (60) hours of annual leave in a fiscal year if determined by the Agency/Department to be economically and/or operationally feasible to do so at the time of the request. In no event shall an employee be paid for more than 120 hours of annual leave in a fiscal year.
3. An employee shall be permitted to cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of 120 hours, if the employee has more than 390 hours of accrued vacation hours at any point in the fiscal year. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

Example #1: If an employee has 755 hours of annual leave, and the employee currently has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 120 hours of annual leave, but no vacation leave;
2. Cash out 120 hours of vacation, but no annual leave; or
3. Cash out any combination of annual leave and vacation leave to a maximum of 120 hours.

Example #2: If an employee has 700 hours of annual leave, but the employee currently has 390 or less accrued vacation hours, the employee may only cash out up to 60 hours of annual leave. Annual leave in excess of 60 hours, up to a maximum of 120 hours, may be permitted at the discretion of the Agency/Department.

Example #3: If an employee has 60 hours of annual leave and the employee has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 60 hours of annual leave and up to 60 hours of vacation leave.
2. Cash out less than 60 hours of annual leave and up to 120 hours of vacation leave which does not, when added to the annual leave cash out, exceed a total of 120 hours.
3. Cash out up to 120 hours of vacation leave and any amount of accrued annual leave which does not, when added to the vacation leave cash out, exceed a total of 120 hours.

#### N. Vacation and Annual Leave Cash Out – Compensation Earnable

Vacation and/or annual leave cash outs are compensation earnable (pensionable) as allowed by law. Members should contact the Orange County Employees Retirement System (OCERS) for further details.

## ARTICLE VI ANNUAL LEAVE PLAN PROVISIONS

These Annual Leave provisions apply only to regular and limited term employees hired on or after July 15, 1977 and before the first full pay period in January 2017, except as otherwise indicated in this Article.

As discussed more fully in Section 3 of this Article, effective the first pay period of January 2017, employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.

### Section 1. 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. Medical and dental office appointments when absence during working hours for this purpose is authorized by the Department.
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 critical 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, registered domestic partner, child, stepchild, grandchild, grandparent, or legal guardian.
5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or registered domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member, or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days per year. For purposes of this Section "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).
7. Absence from duty because of personal business.

8. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
- B. Except as restricted by law, an employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 2. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. Vacations (annual leave) shall be scheduled for employees by their Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- C. 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.
- D. No scheduled annual leave will be cancelled by the Department except in cases of emergency.
- E. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid annual leave from the County service except as an Election Board Officer or Election Night Help.

### Section 3. Payoff of Unused Annual Leave

- A. Payoff of unused annual leave during employment shall be administered according to Article V. Sections 2.K and 2.L.
- 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	240 hours maximum paid at 100%
3 but less than 10	360 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 480 hours are paid at 100%; remaining balance obtains cash value of 2% for each year of service, to a maximum of 50% i.e., 10 years of service equals 20% cash value for remaining balance; 25 or more years of service equals 50% of the remaining balance after deducted from 1600 hours maximum.

- C. Notwithstanding the above, no employee may receive a payoff paid at 100% that exceeds 480 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.F; remaining hours, up to the accrual limits specified in Article V, Section 1.F, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2), will be considered as a payoff for purposes of this provision.) Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.
- D. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service shall be prorated.
- E. Annual Leave Payout on Retirement

An employee who is 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 under the following conditions:

1. 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% (i.e., 240 hours for employees with less than three (3) years of service, 360 hours for employees with at least three (3) years of service but less than ten (10) years of service, 480 hours for employees with at least ten (10) years of service). If the employee does not take time off or the amount of leave taken as time off does not exceed the amount of hours the employee is

eligible to be paid at 100% the remaining balance, to a maximum of 1600 hours (less maximum number of hours paid at 100%) shall be paid in accordance with payoff provisions set forth in Section 4(B) of this Article.

2. Notwithstanding the above, any annual leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the annual leave payoff provisions set forth above. This provision shall not apply to the use of family leave, workers compensation leave, or other statutorily protected leave during the final two (2) pay periods of employment.
- F. Notwithstanding any other provision of this Memorandum of Understanding, if an ACLEM member is killed in the line of duty (in accordance with Penal Code section 830.5), one hundred (100) percent of the employee's Annual Leave balance will be paid to the employee's estate.

Section 4. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. Employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.
- B. Annual Leave that has been accumulated prior to the adoption of this MOU may be retained, provided however, that an employee who needs to use sick leave or vacation must first use accrued annual leave prior to use of sick leave or vacation, until all annual leave has been taken, except for the eighty (80) vacation hours that may be used pursuant to Article V, Section 2.B.

ARTICLE VII HOLIDAYS

Section 1. Holidays Observed

A. Except as modified in Section 1.B., below, County employees shall observe the following holidays:

2019:

Independence Day, July 4  
Labor Day, September 2  
Columbus Day, October 14  
Veteran's Day, November 11  
Thanksgiving Day, November 28  
Day After Thanksgiving, November 29  
Christmas Day, December 25

2020:

New Year's Day, January 1  
Martin Luther King, Jr.'s Birthday, January 20  
Lincoln's Birthday, February 12  
Washington's Birthday, February 17  
Memorial Day, May 25  
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

2021:

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 5  
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 24 (Observed)  
New Year's Day, December 31 (Observed)

2022:

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 26 (Observed)

2023: New Year's Day, January 2 (Observed)  
 Martin Luther King, Jr.'s Birthday, January 16  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February 20  
 Memorial Day, May 29

- B. Except as provided in Section 1.E., below, if a holiday, designated in 1.A., above, falls on a Saturday but is observed on the preceding Friday by the Superior Court, employees who have been designated by the County as being necessary to the operation of said Court may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day, falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. When Christmas Day or New Year's 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 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday, or for both January 1 and the following Monday.
- F. When Christmas Day or New Year's 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 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the Friday immediately preceding or for both January 1 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. A 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.

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 ½) times the employee's basic hourly rate for the number of hours actually worked, to a maximum of eight (8) hours.
  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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A. above and holiday compensatory time received under Section 3.C. above shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.
- F. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.
- G. 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 Memorandum of Understanding, 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.
- H. 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. Employees shall be paid for all compensatory time in excess of eighty (80) hours.

## ARTICLE VIII REIMBURSEMENT PROGRAMS

### Section 1. Mileage Reimbursement

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 the Internal Revenue Service standard mileage rate for the business use of a car for each mile driven during each monthly period.

### 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.

### Section 3. Law Enforcement Transportation Supplement

In recognition of the fact that D.A. Investigative Commanders/Assistant Chief Investigators in the District Attorney's Office drive their private vehicles, on average, in excess of nine thousand (9000) miles per year in the performance of County law enforcement duties, purchase additional liability insurance, transport witnesses and prisoners and incur other miscellaneous expenses, effective August 7, 2015, the County shall pay a five hundred, fifty (\$550) dollar annual transportation expense allowance to D.A. Investigative Commanders/Assistant Chief Investigators employed in the District Attorney's Office as of August 1 of each year who are regularly required to use a private vehicle in their employment. Eligible employees must submit a claim on or before August 31 of each year.

### Section 4. Optional Benefit Plan

- A. Eligibility - a full-time regular, limited-term or probationary employee is eligible to receive the Optional Benefit provided he or she is continuously employed in a full-time capacity. Part-time employees whose normal workweek consists of twenty (20) hours or more will be eligible to receive fifty (50) percent of the Optional Benefit amount available to full-time employees. Employees hired or promoted after the commencement of a plan year will be eligible for the Optional Benefit on a pro-rata basis the first day of the month following the twenty-eighth (28<sup>th</sup>) day of employment in an eligible classification.

An employee on an unpaid leave of absence during the annual Open Enrollment period will be provided the opportunity to make his/her elections for the upcoming plan year. However, if the employee has not returned to work in an eligible status on January 1<sup>st</sup> of the new plan year, his/her elections will be suspended until he/she returns to work. Upon return to work, elections and benefits will be reinstated on a prorated basis, effective the first day of the month following the return to work in an eligible classification.

- B. Each eligible full-time employee shall be entitled to select benefits from those listed below at a cost to the County, and be reimbursed for eligible expenses in an amount not to exceed three thousand five-hundred (\$3,500) dollars, effective the beginning of each calendar year. Eligible part-time employees shall be reimbursed in an amount not to exceed one-half of the Optional Benefit Plan for full-time managers.

The options available shall include the following types of benefits such as:

1. Cash (taxable);
  2. Health/Accident;
    - a. Health care and/or dental expenses which are not reimbursed through any other source (employee and/or dependents) as permitted by state and federal law, regulations, and guidelines, and as permitted by the County's Section 125 Plan Document. Examples of items covered under this provision may include such items as health and dental insurance deductibles, vision care, lenses and frames for eye glasses, and orthodontic treatment;
      - i. Any portion of the Optional Benefit allocated towards the health reimbursement category as outlined in Section 2. a. will be subtracted from the amount the employee is eligible for under the County's Health Care Reimbursement Account (if the employee participates) and subject to state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.
      - ii. Claims shall be made in the manner and/or form designated by the County or its designee, and shall be paid subject to state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan Document.
      - iii. Any portion of the Optional Benefit allocated towards the health reimbursement category in which claims are not incurred within the plan period shall remain County funds.
    - b. Employee's share of Accidental Death and Dismemberment insurance premiums for employee and dependents available through the County. The AD&D premium option will be eliminated effective Plan Year 2020 or as soon thereafter as administratively feasible.
  3. The County's Defined Contribution Plan: A pre-tax contribution to the County's Section 457(b) Defined Contribution Plan.
- D. An employee who does not make an election during the election period shall receive a taxable cash lump sum following the close of the election period. Employee elections are irrevocable unless permitted by state and federal law,

regulations and guidelines, and allowed by the County's Section 125 Plan document. For expenses to be eligible, they must be incurred during a plan period in which an employee is eligible. Claims may be filed at any time during the plan period and all claims must be filed no later than March 31<sup>st</sup> of the next year.

- E. The Chief Human Resources Officer or designee shall administer the plan in accordance with the stated purpose and pursuant to state/federal law.

Section 5. Uniforms

The County will provide, but will not launder or dry clean, required uniforms for the following classes of employees in the Sheriff's Department:

- Lieutenants
- Captains

Section 6. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution.

**ARTICLE IX      DISCIPLINARY ACTION**

No regular, limited-term, or probationary employee shall receive a disciplinary action except for reasonable cause.

**Section 1.    Pre-Disciplinary Hearing for Suspension, Reduction, or Discharge**

- A. In suspending an employee, reducing a regular, limited-term, or probationary employee, 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 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 ACLEM in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying, or canceling the proposed disciplinary action on or prior to the effective date of such action.
- F. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 2. and 3. of this Article.

- G. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 4 of this Article.

#### Section 2. 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 County Executive Officer, which may be referred directly to arbitration.

#### Section 3. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class 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 shall be initiated at Step 2 of the grievance/appeal procedure, except for reductions imposed by the County Executive Officer which may be referred directly to arbitration.

#### Section 4. 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 affected unless approved by the Chief Human Resources Officer except for discharges imposed by the County Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. A discharge may be appealed to advisory arbitration pursuant to Article X, Section 8. B. or to remedies provided in Article X, Section 9.

#### Section 5. Investigatory Meeting

- A. An employee required to attend an investigatory meeting shall receive advance 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 be represented by a representative of his or her choice 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, minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
  - 2. matters which have other means of appeal, but not limited to, matters which may be appealed through the Orange County Merit System Selection Rules and Appeals Procedure or the Workers' Compensation Appeals Board;
  - 3. position classification;
  - 4. performance evaluations with a standard or equivalent rating.

### 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) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any County 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 employee or ACLEM any step of the grievance procedure may be waived.
- D. The Chief Human Resources Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, department-wide or County-wide basis in an emergency situation. ACLEM 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 sixty (60) calendar days from the date of filing the written grievance at Step 1.
- H. A grievance alleging discrimination shall first be referred to the County Equal Employment Opportunity (EEO) Office for intake, review, and if applicable, investigation. The grievant, or his/her representative if represented, shall be notified in writing of the grievance being referred to the EEO Office. The timelines for a grievance alleging discrimination shall automatically be tolled until the EEO Office has notified the grievant and/or his/her representative of the disposition of the allegation(s), at which point the time limits for processing the grievance shall resume.

### 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.

### Section 4. Employee Representation

An employee may represent himself or herself or may be represented by an agent of ACLEM in the formal grievance/appeal procedure. If an employee chooses not to be represented by ACLEM, ACLEM may have a representative present during the grievance/appeal procedure and/or arbitration and, if necessary, shall have the right to present ACLEM's interpretation of provisions of this Agreement at issue. Such presentation shall not include the merits of the grievance. The decision of the arbitrator in such case shall not be precedent setting and shall not be admissible in any subsequent dispute between the County and ACLEM.

### 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 to resolve the matter, as prescribed herein, 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 to resolve the grievance/appeal, as prescribed herein, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through review of appropriate County records 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 unless his or her supervisor determines that such interruption or absence will not 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 toward 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. For grievances alleging

discrimination, the timelines set forth below shall be tolled as provided in Section 2.H.

Step 1: Department Head

An employee may formally submit a grievance to the Department Head 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 suggested solution. Within seven (7) calendar days after the receipt of the written grievance, the Department Head or his or her representative(s) shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given to the grievant.

Step 2: Chief Human Resources Officer

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) a written reprimand; or
- c) a probationary release alleging discrimination or employee rejected from probation for acts of misconduct (to the extent covered by POBR),

it may be appealed in writing to the Chief Human Resources Officer within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction ordered by an 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 Chief Human Resources Officer 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 Chief Human Resources Officer in b or c, above shall be final and binding and shall not be referable to higher County authority or arbitration.

## Section 8. Referrals to Arbitration

### A. Interpretation/Application of MOU Language

If a grievance is not resolved under Step 2, an arbitration request may be presented in writing to the Chief Human Resources Officer within seven (7) calendar days from the date a decision was rendered at Step 2. As soon as practicable thereafter, or as otherwise agreed to by the parties, an arbitrator shall hear the grievance. If, within three hundred sixty five (365) days of the request for arbitration, the County and ACLEM have not yet initially calendared the appeal with an arbitrator, the grievance is considered withdrawn and finally resolved. The arbitration hearing itself need not occur within the three hundred sixty five (365) day window.

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. Appeals of Suspensions/Reductions

#### 1. Submission Procedure

- a. If an appeal from suspension or reduction is not settled at Step 2, a request for arbitration may be presented to the Chief Human Resources Officer within seven (7) calendar days from the date the decision was rendered.
- b. An appeal from any suspension or reduction imposed by the County Executive Officer may be presented to the Chief Human Resources Officer within ten (10) calendar days from the date the action becomes final.
- c. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- d. The issue in all appeals of suspensions/reductions shall be:
 

Was (employee's name) suspended/reduced for reasonable cause?  
If not, what is the remedy?
- e. As soon as practicable after a suspension/reduction appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal, provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.

## 2. Findings of Facts and Remedies

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

- a. If the arbitrator finds that the suspension/reduction was taken for reasonable cause, he or she shall sustain the action.
- b. 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. The decision of the arbitrator in matters of suspension/reduction shall be binding on all parties.

## C. Appeals of Discharges

### 1. Submission Procedure

- a. A discharge may be appealed directly to arbitration within ten (10) calendar days from the date the decision was rendered.
- b. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- c. The issue in all appeals of discharge shall be:  
  
Was (employee's name) discharged for reasonable cause? If not, what is the remedy?
- d. As soon as practicable after a discharge appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal; provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.
- e. The arbitrator shall advise that the order of discharge be sustained, modified, or rescinded.
- f. The decision of the arbitrator in matters of discharge shall be advisory and non-binding.

## D. Probationary Releases Alleging Discrimination or Probationary Release Based on Acts of Misconduct (to extent provided by POBR)

1. The issue to be submitted to the arbitrator in grievances filed pursuant to Article II, 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 unlawful discrimination by the County?
- b. If so, what shall the remedy be under Article X Section 8.A. of this Memorandum of Understanding?

## 2. Findings of Facts and Remedies

- a. In the event the arbitrator finds no unlawful discrimination, the grievance shall be denied and the issue of remedy becomes moot.
- b. In the event the arbitrator finds unlawful discrimination, 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 unlawful discrimination, and also finds that the discrimination 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. The decision of the arbitrator in matters of probationary releases alleging discrimination shall be binding on all parties.

## E. General Provisions

1. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except in matters of discharge and when the appealing party solely alleges unlawful discrimination, in which case the County shall bear the full cost. When the grievance involves both discrimination and other arbitral issues, the proper division of costs shall be determined by the arbitrator.
2. Grievance/Appeal hearings by an arbitrator shall be private.

3. 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 Mediation and 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.
4. 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.
5. 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.
6. 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.
7. 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.

8. 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.
9. The parties agree to forego the use of briefs and transcripts whenever practicable.
10. The decision of the arbitrator shall be binding on both parties except in matters of discharge. In matters of discharge the arbitrator's decision shall be advisory and non-binding.

#### Section 9. Court Action

Notwithstanding anything to the contrary in this Article, a discharged employee shall have the right at his/her option, to file an action in a court of competent jurisdiction. Prior to filing such action the employee must exhaust the steps of the grievance procedure set forth in Sections 6. and 7. of this Article. The employee may then elect to appeal the discharge to advisory arbitration or file a lawsuit. In any such action, the employee shall have the right to pursue any claims he/she might have under statutory or common law, and shall not be limited to an action for breach of contract. The County agrees that it will not assert that the employee failed to exhaust his/her contractual remedies. If an employee elects to file suit, the action shall be subject to the applicable statute of limitations.

## ARTICLE XI      LAYOFF PROCEDURE

### Section 1.    General Provision

This procedure shall not apply to a temporary layoff of less than four (4) consecutive weeks.

### Section 2.    Order of Layoff

- A. When a reduction in the work force is implemented, each Department Head shall determine, subject to CEO approval, which employees are subject to layoff based on the needs of the organization.
- B. In considering which employees shall be subject to layoff, consideration shall be given to knowledge and skills related to organizational need and the employee's performance. Where a Department determines that two or more employees' knowledge, skills, and performance are generally equivalent, years of service shall be given consideration.

### Section 3.    Notification of Employees

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.

### Section 4.    Voluntary Reduction from Classes Designated as Vulnerable to Layoff Appeal

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 placed on the Departmental Rehire List pursuant to Article XI, Section 5.

### Section 5.    Rehire Lists

- A. The names of persons laid off shall be placed on a Departmental Rehire List for each class in the occupational series at or below the level of the class from which laid off.
- B. Persons on the Departmental Rehire List for that class will be considered prior to those eligible on other types of eligible lists. If rehire is offered to a class other than that from which the person was laid off, such person must first meet the minimum qualifications and pass any required performance test for that class.
- C. Names of persons placed on the Departmental Rehire List shall remain on the list for two (2) years, except that:

1. A person who rejects or fails to respond within five (5) calendar days to an offer of employment in a particular class shall be removed from the list for that class.
  2. A person who declines referral for an interview in a particular class shall be removed from the list for that class.
  3. A person who retires from the County shall be removed from all lists.
- D. In the event two (2) or more agencies/departments are consolidated while Departmental Rehire Lists are in effect, such lists shall be combined and treated as one (1) list by class in accordance with the preceding provisions. When a transfer of one (1) or more functions of one Department to another Department occurs, employees previously laid off from such function(s) who are on a Departmental Rehire List for the Department losing such function(s), shall be removed from such list and shall be placed on a Rehire List by class for the Department acquiring such function(s) and treated in accordance with the preceding provisions.

#### Section 6. Status on Rehire

- A. An employee who has been laid off under the provisions of this Article and is subsequently rehired 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 or remaining annual leave balance credited to the employee's account when laid off shall be restored.
  2. All service hours held upon layoff shall be restored.
  3. All prior service shall be credited for the purpose of determining sick leave, vacation leave, 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 II, Sections 1.B.1. or 1.B.2., if reemployment is in a higher class or an occupational series different from that employed in at the time of layoff.

## ARTICLE XII ON-THE-JOB INJURIES, WORKERS' COMPENSATION

### Section 1. On-the-Job Injuries

#### A. Medical Treatment

Whenever an employee sustains an injury or disability arising out of and in the course of County employment which requires medical treatment, the employee shall obtain such treatment pursuant to the appropriate California Labor Code sections.

#### B. Disability Payments and Leave

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 be compensated and placed on Leave pursuant to California Labor Code Section 4850. An employee who is eligible for benefits under California Labor Code Section 4850 shall be placed on 4850 Leave.

### Section 2. Exhaustion of 4850 Benefits

- A. When an employee has exhausted all rights and benefits provided by California Labor Code Section 4850, and such employee continues to be unable to return to work due to an injury or disease arising out of and in the course of County employment, such employee shall be treated in the following manner:
1. he or she shall be entitled to all benefits provided by California Workers' Compensation Law; and
  2. he or she shall be placed on Workers' Compensation Leave pursuant to Article IV, Section 11.; and
  3. at the employee's option, all sick leave, annual leave, compensatory time and vacation shall be added to the workers' compensation temporary disability benefit, if eligible for such benefit, which shall equal one hundred (100) percent of the employee's base salary until such accruals are exhausted; or
  4. if the employee is not eligible for temporary disability or exhausts his or her temporary disability benefit, at the employee's option such accruals shall be continued until they are exhausted. An election to continue accruals shall be irrevocable.
- B. Upon exhaustion of all sick leave, compensatory time and vacation, or annual leave the employee shall not accrue sick leave, vacation or annual leave for the remainder of Workers' Compensation Leave.

- C. 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 of benefits shall be considered County service for merit increase eligibility and completion of the probation period.
- D. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of sick leave, vacation or annual leave 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, annual leave, sick leave, compensatory time, and/or vacation time may be used, at the employee's option, in that order.

ARTICLE XIII MEDICAL INSURANCESection 1. Medical InsuranceA. Medical Insurance Contribution

1. ACLEM employees (actives and retirees) will be covered by an AOCDS medical benefit plan.
  2. Effective at the start of the first pay period commencing on or after January 1, 2019, the County shall contribute \$1,395 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.
  3. Effective July 2, 2021 the County shall contribute \$1,493 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.
  4. Effective July 1, 2022 the County shall contribute \$1,591 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.
  5. For newly hired employees, the County contributions will be effective beginning the first day of the month following the date of employment or the insurance start date, whichever is earlier. During the term of this MOU, any negotiated increase to the amount of the County's contribution to the AOCDS Medical Insurance trust as stated in the AOCDS MOU will also be applicable to ACLEM employees.
  6. Law enforcement managers who retired after July 1, 1988 will be covered by the AOCDS retiree medical benefit plans. Law Enforcement Managers who retired prior to July 1, 1988 will continue to be covered by the County's health plans.
- B. The County's medical insurance contribution for a part-time employee whose normal workweek consists of at least twenty (20) hours shall be one half (1/2) the rate for a full time employee. No contribution shall be made for an employee whose normal assigned hours are reduced to less than twenty (20) hours in a full workweek.
- C. The County shall contribute one half share of the monthly medical insurance contribution for enrolled employees, prorated over twenty-six (26) pay periods each year. The amount of the contribution each month will be based on the number of pay periods in that month. The contributions shall be determined by counting any employee in a paid status during some portion of the pay period.

- D. The County shall contribute the actual costs of coverage for Employee Married to Employee. For two employees to be eligible for enrollment in this status, they must both be working full-time, be enrolled in one health plan, and one employee must enroll as a subscriber and the other as a dependent. The County shall contribute to the AOCDS trust fund when the subscriber is a member of one of these representation units.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to make medical insurance contributions as described in A., B., C. and D., above.

### Section 2. AOCDS Medical Insurance Trust Fund

- A. ACLEM employees will be enrolled in AOCDS medical benefit plans which shall provide medical benefits similar to those offered by the County. All requirements of the AOCDS Medical Insurance Trust Fund and AOCDS health plans as stated in the AOCDS MOU shall apply to ACLEM. Any negotiated change to the AOCDS Medical Insurance Trust Fund requirements and provisions or AOCDS health plans as stated in the AOCDS MOU will also be applicable to ACLEM.
- B. ACLEM shall defend, indemnify and hold the County harmless from any claims or legal action brought by employees in these representation units arising out of, or in any way related to, medical insurance or benefits provided pursuant to this section. This obligation shall not arise with respect to any claim or legal action brought by ACLEM or employees concerning coverage overlap between the respective County and AOCDS plans.
- C. Employees eligible for coverage under a County health plan as a result of change of County representation unit shall be enrolled without regard to pre-existing conditions of illness or injury for plan benefits for themselves or their enrolled dependents.

### Section 3. Other Insurance Coverage

The County will provide to all full time regular, regular limited-term and probationary employees the following provided the employee's normal workweek consists of at least forty (40) hours:

- A. Life Insurance and Accidental Death and Dismemberment Insurance
  - 1. Basic life insurance and accidental death and dismemberment insurance in the amount of one hundred thousand dollars (\$100,000) per full-time employee without proof of insurability. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to Imputed Income requirements as required by law.

2. Employees will have the option to purchase additional life insurance coverage options without proof of insurability if purchased within thirty (30) days of eligibility. Some levels of additional life insurance coverage, or any additional life insurance coverage purchased after thirty (30) days of eligibility require proof of insurability. Employees will have the option to purchase additional supplemental life and accidental death and dismemberment coverage including dependent coverage. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to imputed income requirements as required by law.
- B. Short-Term Disability Insurance Plan at no cost to the employee, to provide, after sick leave, or 192 hours of annual leave for full-time employees or 96 hours of annual leave for part-time employees (whichever is applicable, depending on which leave plan employee is covered by) is exhausted, sixty (60) percent of salary for up to one (1) year for certified non-occupational injury or illness. If the employee applies more than 192 hours of annual leave or 96 hours of annual leave for part-time employees toward the absence, eligibility for Short-Term disability will begin when that portion of annual leave is exhausted. The plan will also provide for continuation of the County's share of premiums for health, dental and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
  - C. Long-Term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
  - D. The County will provide dental insurance for the employee and dependents to all full-time regular, limited-term, and probationary employees.

Part-time regular, limited-term, and probationary employees will have the option of purchasing dental insurance for the employee and dependents by paying one-half the monthly rate paid by the County for full-time employees, provided the employee's normal workweek consists of at least twenty (20) hours.

#### 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

## Section 5. Retiree Medical Plan

Effective August 1, 1993, and as amended herein by the Board of Supervisors, the County shall administer a Retiree Medical Plan (Plan) for employees to include a Retiree Medical Grant (Grant) or a lump sum benefit (Lump Sum) as set forth below. New employees hired on or after June 19, 2009 are not eligible for the Grant. New employees hired on or after June 23, 2006 are not eligible for the Lump Sum.

### A. Retiree Medical Grant

1. Effective August 1, 1993 and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person. Upon paid County retirement, an eligible retiree who meets certain eligibility requirements of the Plan shall receive a Grant. The Grant may be applied only towards the cost of retiree and dependent coverage in an AOCDS health insurance plan and/or Medicare Part B premiums as provided below.
  - a. Upon implementation for eligible retirees, the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service to a maximum of twenty-five years. In each calendar year, the amount of such Grant shall be adjusted by the average percentage increase in County retiree health plan premiums, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
    1. The accruals of years of service towards the Grant amount for employees were frozen as of June 19, 2009 (the beginning of the pay period of Board adoption).
  - b. The Grant will be adjusted as follows:
    1. 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 Medicare Part A (without paying a premium) and Medicare Part B, or immediately if the retiring employee is eligible for Medicare Part A (without paying a premium) and Medicare Part B, as of the date of retirement.
    2. The Medicare reductions in provisions A.1.b.1 do not apply to a retiree or surviving dependent eligible for the Grant who was retired and was eligible for Medicare Part A (if eligible at

no cost) and Medicare Part B on or before September 26, 2006.

- c. All employees who become eligible for a Grant shall be provided a one (1) time opportunity of at least thirty (30) days from the date they retire to enroll in an AOCDS offered health plan or Medicare. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any eligibility for a Grant, if eligible, and enrollment in a County offered retiree health plan.

#### B. Retiree Medical Plan Lump Sum: Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with B. 2. below.
2. An employee who was employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County or AOCDS-offered health plan and/or receipt of a Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

#### C. Eligibility Requirements for Retiree Medical Grant

1. Retiree must be retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS). Employees hired on or after June 19, 2009 are not eligible for the Grant. For an employee who was continuously employed by the County prior to June 19, 2009, any hours of service performed in periods on or after June 19, 2009 shall be included as a part of the credited service towards the Grant eligibility requirements if the employee is continuously employed by the County from June 19, 2009 until his or her retirement. Accrual towards the Grant amount is frozen as set forth in Section 5.A.1.a.1.

Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a., b., c., and d., below:
  - a. A retiree who was hired before June 19, 2009 and receives a service-connected disability retirement pension through OCERS shall be eligible for a Grant regardless of their actual years of credited County service. Their Grant shall be based upon the actual years of credited County service.
  - b. A retiree who was hired before June 19, 2009 with a minimum of five years of credited County service who receives a non-service connected disability retirement pension through OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension through OCERS shall not be eligible for a Grant.
  - c. A separated employee with less than ten (10) years of credited County service who has requested a service or non-service connected disability retirement pension through OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the OCERS grants a disability retirement.
3. All eligible retirees and enrolled dependents who are age sixty-five (65) or older, or Medicare eligible (i.e. early Medicare), must be enrolled in Medicare Part B in order to be eligible for the Grant. All eligible retirees and dependents who are entitled to Medicare Part A coverage at no cost must be enrolled in Medicare Part A to be eligible to receive the Grant.
4. Deferred Retirement
  - a. An employee who is eligible for paid retirement at the time he or she separates from County service, but elects deferred retirement, may defer participation in the Grant until such time as he or she becomes an active retiree.
  - b. An otherwise eligible employee who is not eligible for paid retirement at the time he or she separates from County service but is eligible for and elects deferred retirement shall not become eligible for participation in the Grant.

5. For purposes of this Section, a full year of credited 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 full year of service. Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

1. A surviving dependent of a retiree who was eligible to receive a Grant, as stated above in A through C, shall be eligible for fifty (50) percent of the Grant authorized for the retiree.
2. A surviving eligible ACLEM retiree who qualifies for a monthly retirement allowance who was married to an ACLEM, AOCDS, or County retiree who was also eligible for a Grant shall receive the survivor benefit described in D.1., above, or his or her own Grant, whichever is greater. A retiree may not receive both a benefit as a surviving dependent, as stated in D.1. and his or her own Grant.

#### E. Employee Contribution

1. Except as provided in E.2., E.3., and E.4. below, effective June 19, 2009, employees shall continue to contribute three and six-tenths percent (3.6%) of their bi-weekly base salary, exclusive of overtime and premium pay, to offset the Annual Required Contribution (ARC) to continue the Grant for eligible retirees. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
2. Except as provided in E.4. below, employees hired on or after the first day of the first full pay period that falls in the month after Board adoption of a Resolution adopting the "3% at 55" safety retirement formula shall contribute two percent (2%) of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the Retiree Medical Program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
3. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% at 50" safety retirement formula shall have their ARC contribution reduced from 3.6% to 1.6% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

4. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% at 55" safety retirement formula shall have their ARC contribution reduced from 2.0% to 0% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

#### F. General Provisions

1. AOCDS shall administer the health insurance program for retirees of this unit, subject to the requirements set forth in this section.
2. Retiree health plan premiums shall be 10% higher than active employees' health plan premiums.
3. AOCDS and ACLEM shall provide to the County all information necessary for the County to administer the Plan including, but not limited to, retiree health insurance enrollment information, verification of Medicare enrollment and verification of the premiums for all health insurance plans.

#### G. Health Reimbursement Account

Effective October 12, 2007, the County established a Health Reimbursement Account (HRA) for current and future employees. Members of ACLEM began participation in the HRA on June 19, 2009. The County and the HRA administrator, with the oversight of the Health Reimbursement Account Advisory Committee, shall administer the program subject to the requirements set forth in the Internal Revenue Code and the Health Reimbursement Arrangement Plan Document.

1. Effective June 19, 2009, employees began contributions of one (1) percent of their bi-weekly base salary, exclusive of overtime and premium pay, to fund their Health Reimbursement Account Plan.
2. Effective June 19, 2009, the County began contributions of one (1) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.
3. Effective November 11, 2016, the County began contributions of two (2) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan. The employee contribution referenced in subsection 1 above, shall be reduced from one (1) percent to zero (0) percent.

4. Effective as of July 6, 2018, the County will contribute four (4) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.

#### Section 6. Reopener and Responsibilities of Parties as a Result of ACA

The County may reopen negotiations on this Article and other provisions of the MOU (e.g., Optional Benefits program in Article VII, Section 4, Flexible Spending Accounts in Article XX), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits).

The Parties acknowledge that ACLEM members are enrolled in health plans administered by AOCDS. The parties are uncertain about the issues referred to above, but expect that these issues will be addressed in future negotiations between the County and AOCDS.

ACLEM agrees to be bound by any agreements between the County and AOCDS reached as to these issues with the understanding that it may be necessary to modify any such agreements to reflect differences that exist between the bargaining units regarding levels of payments made, etc.

ACLEM agrees to ensure that the County receives any and all information necessary for the County to complete reporting under IRC sections 6055 and 6056 or other reporting as required by the Patient Protection and Affordable Care Act or any other state or federal requirements.

If any fees, assessments or penalties are charged to the County (as the employer) as a result of any failure to meet the health care reform requirements outlined above in conjunction with the health care benefits provided by the AOCDS medical plan Trust, ACLEM agrees to be bound by any agreement reached between the County and AOCDS regarding payment of said fees, assessments or penalties.

For the purposes of distributing any potential rebates received under the Minimum Loss Ratio rules, the County will use any such rebates to reduce the premium share for members covered by the benefit plan or option generating the rebate.

## ARTICLE XIV SAFETY

### Section 1. General Provisions

- A. The parties recognize that due to the nature of law enforcement, employees are required to work under conditions dangerous to the employee's health or safety.
- B. Nonetheless, the County shall make a reasonable effort to provide and maintain a safe place of employment. 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2. 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.

ARTICLE XV PAYROLL DEDUCTION OF DUES AND INSURANCE  
PREMIUMS AND EMPLOYEE INFORMATION LISTING

Section 1. Payroll Deduction/Membership

- A. Each employee in the Representation Unit hired by the County on or after June 1, 2018, must make an affirmative election in order to become a member of ACLEM. ACLEM must notify the County in writing of any new employee that joins.
- B. ACLEM shall notify the County, in writing, as to the amount of dues, deductions and service fees required of members of ACLEM and also the amount of insurance premiums required of employees.
- C. ACLEM must notify the County of any employee requesting to be removed from ACLEM membership. ACLEM will indemnify the County from any claim that fees were wrongfully collected as the result of its failure to notify the County of membership changes.
- D. The County shall rely on the notification of new membership and election of dues deductions supplied by ACLEM. ACLEM will indemnify the County from any claim of wrongful deduction made by an employee based on the County's reliance on the notice provided.
- E. Pursuant to the notification provided by ACLEM in Section 1.A. and B. above, the County will deduct the amount of dues, deductions, service fees, and insurance premiums as determined by ACLEM and any change shall be implemented by the County in the first pay period which commences thirty (30) days after written notice of the change is received by the Chief Human Resources Officer.
- F. The County shall promptly transmit the dues, deductions, service fees, and insurance premiums so deducted to ACLEM.
- G. The foregoing is to reflect the parties understanding of its rights, responsibilities, and duties under the following statutes:

Government Code Sections 1152, 1157.3, 1157.12 and SB 866.

The parties are not waiving their rights under these statutes, all of which are reserved.

- H. Dues, deductions, and service fees include, but are not limited to, "membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization" per Government Code section 1152 and "dues in, or for any other service, program, or committee provided or sponsored by, any employee organization" per Government Code section 1157.3.

## Section 2. Employee Information Listing

Upon request, to a maximum of two (2) times per fiscal year during the term of this Memorandum of Understanding, the County shall provide ACLEM with a complete and current listing of all employees in the Units represented by ACLEM. Such listings shall include employee name, job classification, department, timekeeping location, salary range and step. ACLEM agrees to pay one dollar and fifty cents (\$1.50) per page to offset the cost of providing such listings.

ARTICLE XVI EMPLOYEE RIGHTS

Section 1.

The County shall not take any action against an employee for exercising any rights, or receiving any benefits, provided for in this Memorandum of Understanding.

Section 2.

The rights provided for in the Public Safety Officer's Procedural Bill of Rights Act are not superseded, waived or in any other manner diminished by any term or condition of this Memorandum of Understanding.

Section 3.

Prior to answering questions posed by an investigating officer conducting an investigation that could reasonably lead to punitive action, or being required to submit a written report, an employee, upon request, will be given the opportunity to contact ACLEM to determine his/her representational rights.

ARTICLE XVII NONDISCRIMINATION

Section 1.

The County and ACLEM agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2.

ACLEM shall not discriminate in membership or representation as required by state and federal law.

ARTICLE XVIII DEFINED COMPENSATION

An employee in a regular or limited-term position may, at his or her request, participate in the County's Section 457(b) Defined Compensation Plan.

ARTICLE XIX SEPARABILITY

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

ARTICLE XX FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

Section 1. Dependent Care Reimbursement Account

The County will administer a Dependent Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's dependent care reimbursement account to pay for dependent care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

Section 2. Health Care Reimbursement Account

The County will administer a Health Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's health care reimbursement account to pay for health care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

## ARTICLE XXI RETIREMENT

### Section 1.

Eligible employees of this Unit are included in the Orange County Employees Retirement System as determined by their date of entry into eligible County service.

### Section 2.

Effective as of July 10, 2015, employees pay their full member contributions; the County no longer pays toward safety member employees' retirement contribution.

### Section 3.

Members' normal and cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors, and in accord with the provisions of this MOU.

### Section 4.

Effective June 28, 2002, the County implemented the 3% at 50 safety retirement formula for current active employees for all years of service as specified under the applicable Government Code Sections. Employees hired by the County prior to the implementation of the 3% at 55 safety retirement formula (see Section 5 below) will be in the 3% at 50 safety retirement formula.

### Section 5.

Effective March 16, 2010, all new employees to safety classifications represented by ACLEM, who were not in a Safety Retirement Classification with the County prior to their date of entry into ACLEM and who are not considered "new members" within the meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA"), will be in the "3% at 55" retirement formula, as provided for in Government Code Section 31664.2.

### Section 6.

For Employees Hired on or After January 1, 2013, who are Considered "New Members" Within the Meaning of PEPRA

The PEPRA shall in its entirety be given full force and effect as it may from time to time be mandated by statute, as described below, during and after the term of this 2015-2018 MOU, regardless of any PEPRA provision(s) not being specifically included herein. Any provision in this MOU which contradicts any mandated provision of the PEPRA shall be deemed null and void, with the contrary mandated PEPRA provision(s) being given full force and effect. Therefore, no mandated provision of the PEPRA shall be deemed to impair any provision of this MOU or any MOU predating the 2015-2018 MOU. PEPRA mandated provisions include, but are not limited to the provisions described below:

Unit members who are “new members” as defined by the PEPRA (Government Code section 7522.04(f)), shall be required to pay an OCERS member normal cost contribution in an amount determined pursuant to Government Code Sections 7522.30 and 31620.5 for the Defined Benefit Plan provided for by PEPRA, in which the new member is enrolled.

Those new members shall be enrolled in the 2.7% at 57 Benefit Plan, as provided in Government Code section 7522.25(e), with a final compensation measurement period of 36 consecutive months as set forth in Government Code Section 7522.32(a).

#### Section 7. Tax-Deferred Retirement

The County shall continue the tax-deferred retirement plan, known as 414H(2) for the duration of the Memorandum of Understanding (unless the Internal Revenue Service rules that 414H(2) is no longer applicable).

ARTICLE XXII COUNTY RIGHTS

The County retains the exclusive right to make all managerial and administrative decisions including, but not limited to, the nature and extent of services to be performed, the methods, means and personnel by which its operations are to be conducted, and such other decisions as may be necessary to organize and operate in the most efficient manner. Such rights shall also include the right to manage and direct the workforce, 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.

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## APPENDIX A

Classes included in the Law Enforcement Management Unit as of June 21, 2019.

6138ML	Lieutenant
6141ML	Captain
6531ML	Investigative Commander, DA
6534ML	Assistant Chief Investigator, DA

[TENTATIVE AGREEMENT 10/2/2019](#)

# MEMORANDUM OF UNDERSTANDING

## LAW ENFORCEMENT MANAGEMENT UNIT

# 20198 - 2023~~19~~

COUNTY OF ORANGE  
AND  
ASSOCIATION OF COUNTY LAW  
ENFORCEMENT MANAGERS

MEMORANDUM OF UNDERSTANDING

201~~98~~ - 20~~23~~<sup>19</sup>

COUNTY OF ORANGE

AND

ASSOCIATION OF COUNTY LAW ENFORCEMENT MANAGERS

FOR THE

LAW ENFORCEMENT MANAGEMENT UNIT

This Memorandum of Understanding adopted by the Board of Supervisors ~~on June 26, 2018~~ sets forth the terms of agreement reached between the County of Orange and the Association of County Law Enforcement Managers as the Exclusively Recognized Employee Organization for the Law Enforcement Management Unit for the period beginning June ~~21, 2019~~<sup>21, 2019</sup> through June ~~20, 2019~~<sup>29, 2023</sup>. Unless otherwise indicated herein, all provisions shall become effective October 25, 2019.

PREAMBLE

Recognition

Pursuant to the provisions of the Employee Relations Resolution of the County of Orange and the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), the Association of County Law Enforcement Managers, hereinafter referred to as ACLEM, was re-certified on May 14, 2014, as the Recognized Employee Organization for the Law Enforcement Management Unit with respect to wages, hours and other terms and conditions of employment. The County hereby recognizes ACLEM as the exclusive representative of employees in this unit.

## 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:

ASSOCIATION shall mean the Association of County Law Enforcement Managers

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

CHIEF HUMAN RESOURCES OFFICER shall mean the Chief Human Resources Officer or his or her designee.

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, but shall not constitute a break in continuous service.

COUNTY shall mean the County of Orange.

DEPARTMENT shall mean the County of Orange Sheriff-Coroner Department or District Attorney Office.

DEPARTMENT HEAD shall mean the Sheriff-Coroner or District Attorney or their designees.

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.

EXEMPT EMPLOYEE shall mean a regular, limited-term or probationary employee who is designated as Executive, Administrative or Professional per the provisions of the Fair Labor Standards Act.

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.

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.

OFFICIAL PERSONNEL FILE shall mean the department and/or Human Resources file of personnel records maintained on each employee.

PART-TIME EMPLOYEE shall mean an employee employed in one (1) 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 unforeseen 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 shall mean 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 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.

REDUCTION IN CLASS 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 lower than the maximum step of the old salary range.

REDUCTION IN SALARY shall mean the movement of a regular or limited-term employee from one (1) step on the salary range for a class to a lower step on the salary range for the same class.

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 unless the context herein indicates otherwise.

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

## ARTICLE I WORK PERIOD AND PREMIUM PAY

### Section 1. Work Period and Work Week

- A.
1. For Law Enforcement Managers the official work period shall be 28 days and shall begin at 12:00 a.m. on each Friday and end at 12:00 a.m. four weeks later.
  2. Law Enforcement Management employees are not governed by the customary forty (40) hour workweek and may be expected to work more than forty (40) hours in a given work week pursuant to the specific dictates of the assignment. On occasion, employees may work less than a full workweek if the nature of the assignment so dictates and the employee has either received permission from his/her supervisor to do so or the employee uses appropriate leave time. The Department Head shall regulate the work schedule based on the needs of the County with due regard to maintaining reasonable and equitable work schedules for all employees.
- B. If any Law Enforcement Management employee is required to work an unusually large number of hours as a result of natural disasters and/or officially declared emergencies such as floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances, the Department Head may authorize additional compensation for such an employee or group of employees whom the Department Head determines should receive additional compensation. The rate of such compensation shall not exceed the employee's regular biweekly pay rate.
- C. Employees shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed for each full pay period worked as determined by Article I, Section 1.A.
- D. Notwithstanding any other provisions contained herein, ACLEM employees declared by the Chief Human Resources Officer to be exempt from the Fair Labor Standards Act shall not be docked salary for partial day absences as long as that exempt status continues to apply and as long as the Fair Labor Standards Act is applicable to the County.

### Section 2. Premium Pay

#### A. Night Shift Differential

1. An employee who works an assigned night shift [as determined by the Department Head](#), 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.~~ 6 p.m. and 6 a.m.
3. The rate of night shift differential shall be five (5) percent of one-eighth (1/8) of the biweekly rate.

#### B. Bilingual Pay

1. Qualified employees who meet the following criteria shall receive thirty (30) cents per hour for each hour worked.
  - a. An employee must be assigned by Department management to speak or translate a language in addition to English. This may include 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 Chief Human Resources Officer, or his/her designee.

#### C. ~~Police Services Chief's Premium~~

~~The Sheriff-Coroner may authorize a five (5) percent premium, based on assignment and performance, for Lieutenants who are appointed to positions that function as Police Services Chiefs in jurisdictions that contract with the County for police services.~~

#### DC. Special Assignment Premium

1. The District Attorney may authorize a five (5) percent premium for Commanders and Assistant Chiefs functioning in specialty assignments which have significant responsibility for the management and coordination of countywide regional or federal programs.
2. The Sheriff-Coroner may authorize a five (5) percent premium, based on assignment and performance, for Lieutenants functioning in assignments with significant responsibility for the management and coordination of personnel and resources in support of specialized units, programs, initiatives, or law enforcement contracts.

ARTICLE II PAY PRACTICESSection 1. Compensation for Employees

The Law Enforcement (LM) Salary Schedule includes only two (2) steps: Probationary and Non-Probationary.

The LM Salary Schedule reflected below was effective ~~the first full pay period in January, 2018~~ January 4, 2019:

<u>Law Enforcement Management - Sheriff Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1</u>	<u>Hourly</u>	<u>\$77.42</u>	<u>\$80.94</u>
	<u>Biweekly</u>	<u>\$6,193.60</u>	<u>\$6,475.20</u>
	<u>Monthly</u>	<u>\$13,419.47</u>	<u>\$14,029.60</u>
	<u>Annually</u>	<u>\$161,033.60</u>	<u>\$168,355.20</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2</u>	<u>Hourly</u>	<u>\$89.05</u>	<u>\$93.10</u>
	<u>Biweekly</u>	<u>\$7,124.00</u>	<u>\$7,448.00</u>
	<u>Monthly</u>	<u>\$15,435.33</u>	<u>\$16,137.33</u>
	<u>Annually</u>	<u>\$185,224.00</u>	<u>\$193,648.00</u>

<u>Law Enforcement Management - District Attorney Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1A</u>	<u>Hourly</u>	<u>\$84.52</u>	<u>\$86.54</u>
	<u>Biweekly</u>	<u>\$6,761.60</u>	<u>\$6,923.20</u>
	<u>Monthly</u>	<u>\$14,650.13</u>	<u>\$15,000.27</u>
	<u>Annually</u>	<u>\$175,801.60</u>	<u>\$180,003.20</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2A</u>	<u>Hourly</u>	<u>\$90.86</u>	<u>\$93.10</u>
	<u>Biweekly</u>	<u>\$7,268.80</u>	<u>\$7,448.00</u>
	<u>Monthly</u>	<u>\$15,749.07</u>	<u>\$16,137.33</u>
	<u>Annually</u>	<u>\$188,988.80</u>	<u>\$193,648.00</u>

<u>Law Enforcement Management - Sheriff Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1</u>	<u>Hourly</u>	<u>\$75.15</u>	<u>\$78.56</u>
	<u>Biweekly</u>	<u>\$6,012.00</u>	<u>\$6,284.80</u>
	<u>Monthly</u>	<u>\$13,026.00</u>	<u>\$13,617.07</u>
	<u>Annually</u>	<u>\$156,312.00</u>	<u>\$163,404.80</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2</u>	<u>Hourly</u>	<u>\$86.43</u>	<u>\$90.36</u>
	<u>Biweekly</u>	<u>\$6,914.40</u>	<u>\$7,228.80</u>
	<u>Monthly</u>	<u>\$14,981.20</u>	<u>\$15,662.40</u>
	<u>Annually</u>	<u>\$179,774.40</u>	<u>\$187,948.80</u>

<u>Law Enforcement Management - District Attorney Salary Schedule</u>			
<u>Pay Rate</u>	-	<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-1A</u>	<u>Hourly</u>	<u>\$82.04</u>	<u>\$84.00</u>
	<u>Biweekly</u>	<u>\$6,563.20</u>	<u>\$6,720.00</u>
	<u>Monthly</u>	<u>\$14,220.27</u>	<u>\$14,560.00</u>
	<u>Annually</u>	<u>\$170,643.20</u>	<u>\$174,720.00</u>
		<u>Probationary</u>	<u>Non-Probationary</u>
<u>LM-2A</u>	<u>Hourly</u>	<u>\$88.20</u>	<u>\$90.36</u>
	<u>Biweekly</u>	<u>\$7,056.00</u>	<u>\$7,228.80</u>
	<u>Monthly</u>	<u>\$15,288.00</u>	<u>\$15,662.40</u>
	<u>Annually</u>	<u>\$183,456.00</u>	<u>\$187,948.80</u>

A. Effective the first day of the first full pay period following adoption of this Memorandum of Understanding by the Board of Supervisors, the unadjusted base salary rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

A.B. Effective ~~July 6, 2018~~ July 3, 2020, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

C. Effective ~~January 4, 2019~~ July 2, 2021, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

B.D. Effective July 1, 2022, the unadjusted base hourly rate for each pay rate assigned to each class within the Law Enforcement Management Unit shall be increased by 3.5%.

#### Section 2. Pay for New Employees

A new employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the new employee is hired.

#### Section 3. Salary on Promotion

A newly promoted employee shall be paid at the probationary step of the salary schedule in effect for the particular class or position in which the employee is promoted.

#### Section 4. Salary on Reduction in Class

A.

1. When a 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 Department Head is reduced to a class not previously occupied by the employee, the employee shall be placed in the Probationary step for the lower class and shall receive a new probationary period.
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 Department Head is reduced to a class the employee occupied in good standing, the employee shall be placed in the Non-Probationary step for the lower class.

B. When a regular or limited-term regular employee is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief Investigative Commander to D.A. Investigative Commander), by demotion for reasons of unsatisfactory performance, the employee's salary shall be reduced to the Non-Probationary step on the salary range.

C. When a regular or limited-term employee in good standing is reduced to a position in a lower class (i.e., Captain to Lieutenant or D.A. Assistant Chief

Investigative Commander to D.A. Investigative Commander), for reasons other than unsatisfactory performance, the employee shall be reduced to the Non-Probationary step in the lower class.

- D. When a regular, limited-term or probationary employee is reduced as the result of a position reclassification, 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 each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class. Each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range of the new class.
  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 to the Non-Probationary step of the new class.

#### Section 5. Salary on Reclassification

- A. The salary of a regular, limited-term or probationary employee whose position is reclassified shall be determined as follows:
  1. If the position is reclassified to a class with the same salary range, the employee's salary, and probationary status remain the same as in the former class.
  2. If the position is reclassified to a class with a higher or lower salary range, each Probationary employee shall be compensated at the Probationary step in the new salary range of the new class and each Non-Probationary employee shall be compensated at the Non-Probationary step in the new salary range in the new class.

#### Section 6. 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 Chief Human Resources Officer, be appointed at the same Probationary or Non-Probationary step the person held prior to separation, but no higher than the step the person received at the time of separation.
- 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 or other reasons authorized by law and may be appointed to the position at an hourly rate not to exceed 80% of the hourly rate that the employee earned at the time of retirement.

#### Section 7. Changes in Salary Allocation

If a class is reassigned to a higher or lower salary step, each Probationary employee in the class shall be compensated at the new Probationary step. Each Non-Probationary employee in the class shall be compensated at the new Non-Probationary step.

## ARTICLE III GENERAL PERSONNEL PROVISIONS

### Section 1. Probation

#### A. New Probation

##### 1. Full-Time Employee

A new or reemployed employee in a regular or limited-term position shall be placed on a new probation period for fifty-two (52) 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 in a part-time regular or limited-term position shall be placed on a new probation period for two thousand eighty (2080) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

#### B. Promotional Probation

1. A full or part-time employee who is promoted shall be placed on promotional probation and shall serve a probation period of fifty-two (52) weeks from the date of promotion ending with the first day of the pay period following completion of said period. A part-time employee shall serve a promotional probation period for 2080 hours ending with the first day of the pay period following completion of said period.
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 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.

An evaluation reflecting successful completion of the probationary period is required before advancement to the new Non-Probationary step.

## C. Failure of Probation

### 1. New Probation

An employee on new probation may be released at the sole discretion of the eD Department at any time without right of appeal or hearing except that where an employee alleges his or her release was the result of discrimination by the County in violation of Article XVII, NONDISCRIMINATION or alleged misconduct (to the extent covered by the Public Safety Officers Procedural Bill of Rights Act (POBR)), the employee may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt by the employee of notice of failure of new probation.

### 2. Promotional Probation

- a. To the extent permitted by law, an employee on promotional probation may be failed at the sole discretion of the eD Department at any time without right of appeal or hearing.
- b. 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 class for the purpose of training for a promotion to a higher class.
- c. 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 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.

## 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.C., 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 the 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, except as provided in Section 1.E.1. and 2. of this Article, below, and an employee who is permitted by the Department to work beyond the end of a probation period shall be deemed to have passed such probation period.

#### E. Extension of Probation Periods

1. The granting of an Official Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended period resulting from the Official 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 the suspension, with the extended probation period ending with the first day of the pay period after said extended date.
2. A new or promotional probationary employee who is on paid Administrative Leave shall have his or her probationary period extended by the length of the leave. If the extended probationary period ends in the middle of a pay period, the probationary period shall be extended to conclude on the final day of that pay period.
- ~~2.3.~~ The Chief Human Resources Officer 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.
- ~~3.4.~~ Upon recommendation of the Department or request of the employee with concurrence of the Department, the probation period of an employee may be extended at the sole discretion of the Chief Human Resources Officer for a period not to exceed one hundred eighty (180) calendar days provided such action is approved by the Chief Human Resources Officer before the normal probation period is completed.

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

4.5. The Chief Human Resources Officer shall extend the probationary 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. 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 destroyed pursuant to an agreement between the Chief Human Resources Officer 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 3. 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 Department Head shall become a limited-term regular employee.

- C. All limited-term employees who transfer to permanent funded positions shall serve a new probation period. Limited-term regular employees who transfer to permanent positions shall maintain their original hire date for purposes of vacation and sick leave, or annual leave accrual, retirement and layoff.
- 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 Department Head shall retain their former status and retain their layoff benefits in their former layoff unit. The Department Head shall make such an order in writing prior to the date of transfer or promotion.

#### Section 4. 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. In such a case the employee shall be reassigned within five (5) working days.
- B. The 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 nine (9) months. Temporary promotions which are being used to dual-fill for an employee on leave of absence shall be limited to one year.
- 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 Department.

#### Section 5. 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.

- B. Employees retired for physical disability who have contacted OCERS for advice and counsel under Section A above who within two (2) years from the date of retirement or date their disability retirement is discontinued, request and have been counseled as required above and qualify for positions in the County service shall be placed on the COUNTY PREFERRED ELIGIBLE LIST with respect to such positions. They will be placed on such list in chronological order of retirement but following the last person on layoff status. They will remain on such list for a period of two (2) years from date of retirement or date their disability retirement is discontinued, except that:
1. a person appointed to a regular position in the County service shall be removed from the list;
  2. a person who, on two (2) separate occasions, rejects or fails to respond within three (3) calendar days to offers of employment in a class for which he or she is qualified shall be removed from the list;
  3. a person who on three (3) separate occasions, declines referral for interviews in a class for which he or she is qualified shall be removed from the list.

Section 6. 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 7. 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 Chief Human Resources Officer during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) agency/department to another.

## ARTICLE IV LEAVE PROVISIONS

The County may reopen negotiations on this Article for the purpose of clarifying and streamlining language for understandability.

### Section 1. Sick Leave

#### A. Accumulation of Sick Leave

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. 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).
3. 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).
4. 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.

#### 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. Medical and dental office appointments when absence during working hours for this purpose is authorized by the Department.
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. For purposes of this Subsection, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband,

registered domestic partner, child, stepchild, grandchild, grandparent, legal guardian or any other relationship as required by law.

5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member;; or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days or 24 hours per year, whichever is greater. For purposes of this Subsection "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).

The first three (3) days or 24 hours, whichever is greater, of paid sick leave taken each 12 month period will be considered sick leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code sections 245-249). The 12 month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the 12 month period is the 12 month period beginning on the employee's hire date.

7. 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 Department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
  - d. Except as prohibited by law upon the employee's return to work, the employee must furnish the Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
8. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.

9. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

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., B.5., or B.6., above.
2. Absences which occur on a County holiday.

D. General Provisions

1. Except as prohibited by law, 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 when the Department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
2. Employees hired on or after July 15, 1977 shall not be eligible for any payoff of sick leave. Employees hired before July 15, 1977 are eligible for sick leave payoff under the following conditions:
  - a. Upon paid County 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.2.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.2.a.
3. When a person is reemployed in a regular or limited-term position, the Chief Human Resources Officer may, upon the request of the Department, apply the period of previous County continuous service for the purpose of determining sick leave earning rates. Notwithstanding the above, if an employee separates from the County and is rehired within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated to the extent required by law. The employee will also be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring to the extent required by law.
4. Notwithstanding any other provision of this Memorandum of Understanding, if an employee is killed in the line of duty, the employee's estate shall be paid for one hundred (100) percent of the employee's unused Sick Leave.

## Section 2. Bereavement Leave

~~Upon request, regular, limited-term or probationary employees shall receive necessary time off with pay, not to exceed forty (40) hours in any one (1) instance, to arrange for or attend a funeral of a member of his or her immediate family. Part time employees will receive twenty (20) hours of leave. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandchild, grandparent or legal guardian.~~

Bereavement leave is paid leave which is available to an employee related to the death of a member of the employee's immediate family as defined below.

- A. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, spouse, registered domestic partner, civil-union partner, child, step-child, grandparent, grandchild or person with whom the employee has/had a legal guardian relationship.
- B. Upon request, regular, limited-term or probationary employees who are in full-time paid status shall receive time off with pay, not to exceed forty (40) hours for each death and employees who are in part-time paid status shall receive time off with pay, not to exceed the number of hours scheduled in a

part-time employee's normal workweek in any one (1) instance for each death.

- C. Generally, time off shall be taken in whole day increments and may be taken nonconsecutively. If requested, partial day absences may be approved if operationally feasible. Use of this leave must be completed within six (6) months of the loss.
- D. An employee may request additional time off for bereavement. Additional time off shall be charged to the employee's accrued balances and must meet eligibility requirements and conditions set forth in Article IV - Section 1, Article V, or Article VI.

### Section 3. Authorized Leave Without Pay

#### A. Departmental Leave

Upon request, a regular, limited-term or probationary employee may be granted a 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 department except in cases where Official Leave has been authorized pursuant to Sections 10, 11 and 15, below. The Department Head may require that all accumulated compensatory time be used prior to granting of Departmental Leave. If the leave qualifies as Family Leave pursuant to applicable law, the Department Head may require that all sick leave, compensatory leave, vacation time and/or annual leave be used prior to granting Departmental Leave except that the use of sick leave shall be subject to the provisions of Article III, Sections 1.C and D above. The use of earned vacation or annual leave prior to the obtaining of 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., below. Such Leave may be taken only after an employee's completion of a Departmental Leave provided that granting of a Departmental Leave shall not be a prerequisite to a request for Official Leave. The Department may require that all or a portion of compensatory time, vacation or annual leave be used prior to granting such Leave.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of the 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 Department denies the extension of such Leave, the provisions of subsection 5. below, shall not apply.

3. An employee who has requested and identified a valid need for Family Leave pursuant to Article IV, Section 15, and applicable law, shall be granted Official Leave to the extent required by such law. Such leave shall be authorized only after use of leave balances as specified below:
  - a. When Official Leave involves the employee's own serious health condition – after all accumulated compensatory time, vacation accruals, sick leave or annual leave have been used:
  - b. When Official Leave is used for all other reasons – after all accumulated compensatory time and vacation accruals or not more than 100 hours of annual leave have been applied toward the absence. The use of annual leave beyond 100 hours shall be at the discretion of the employee, subject to the Annual Leave provisions.
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 two (2) weeks' notice prior to the date he or she wants to return to work, the Department shall not be required to return the employee to work until the employee gives such notice; however, the Department may waive the notice or reduce the notice period at its discretion.
5. Except as to leave which must be granted pursuant to Sections 10, 11 and 15 of this Article, the eDepartment shall indicate on the request its decision as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Chief Human Resources Officer. He or she shall deliver a copy to the Auditor-Controller and the employee. If the eDepartment 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 Chief Human Resources Officer. The Chief Human Resources Officer shall review the request and make a decision within seven (7) calendar days. The decision of the Chief Human Resources Officer on such appeals shall be final.
6. An Official Leave shall not be deemed a break in County service but such 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 Chief Human Resources Officer 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 department only where the employee is unable to initiate such action, except in cases where the provisions of Section 11.A. apply.

#### Section 4. Official Leave for Non-occupational 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 non-occupational 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 sick leave, compensatory, vacation time, and annual leave have been applied toward the absence.
  3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
  4. For employees who are disabled because of pregnancy, as defined by state law, the County will maintain and pay for an employee's coverage under the County's group health plan for the duration of the leave, not to exceed four (4) months over the course of a 12-month period, at the level and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.
- B. If additional Leave is desired, the employee shall request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. Unless otherwise required by law, an employee shall not be entitled to more than one (1) such Leave per twelve (12) month period.

#### Section 5. Absences Caused by Medical Conditions

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to medical condition, 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 provisions set forth in Article I.

## Section 7. Witness Leave Not Related to Employment

A regular, limited-term or probationary employee who is called to answer a subpoena, which is not related to employment, 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 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 ACLEM Business

- A. The County shall allow an employee up to five (5) working days absence without pay during each payroll year for the term of this Agreement to perform official ACLEM business, provided that:
1. ACLEM shall make such a request to the employee's Department Head at least ten (10) days in advance.
  2. ACLEM shall not request that such Leave be effective for more than four (4) employees on any workday.
  3. The services of such an employee are not immediately required by the County, and other competent employees are available to do the employee's usual work.

## Section 9. Absence Without Authorization

- A. Absence without authorization, whether voluntary or involuntary, for three (3) consecutive working days shall be considered an automatic resignation from County employment as of the last date on which the employee worked or the last date 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 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, the date the County plans to take this action and its effective date as determined by A., above;
  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 date the County plans to accept and enter 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 date the County plans to accept and enter the automatic resignation; 2) provides an explanation satisfactory to the Department as to the cause of the unauthorized absence, the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons; and 3) is found by the 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 Department determines it is appropriate to use sick leave, compensatory time, vacation, annual leave 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 10. 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 legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is within six (6) months before or after the expected date of birth or legal adoption of the child.
  2. Sufficient documentation of such birth or legal adoption is submitted with the request for Leave.
  3. Such employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours.
  4. All accrued vacation and compensatory time and the portion of 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 must be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article or Section 2.1.a of Article VI - Annual Leave provided the employee has furnished the 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 Non-occupational 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 11. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XII, Section 1.B., a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave upon exhaustion of 4850 benefits.
- B. Workers' Compensation Leave shall continue until the employee:

1. is determined to be physically able to return to work by a County-designated physician;
  2. is determined to be physically able to return to work with medical restrictions which the [eD](#)epartment can accept;
  3. accepts employment outside the County;
  4. accepts employment in another County position;
  5. is retired pursuant to appropriate Government Code provisions.
- C. An employee on Workers' Compensation Leave and/or 4850 Leave must 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 [eD](#)epartment shall not be required to return the employee to work until such notice is given; however, the [eD](#)epartment may waive the notice or reduce the notice period at its discretion.
- D. If an employee's Workers' Compensation Leave or 4850 Leave expires and the employee is absent without authorization, the provisions of Section 9. of this Article shall apply.
- E. For employees on Workers' Compensation Leave, merit increase dates, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

## Section 12. ACLEM 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 ACLEM for the term of this Memorandum of Understanding provided that:
1. The Presidential Leave shall be a minimum of eight (8) hours.
  2. The Presidential Leave is requested fourteen (14) calendar days in advance. Said notice may be waived by mutual agreement.
  3. ACLEM promptly reimburses the County for all ACLEM President salary expenses incurred during the Presidential Leave.
  4. ACLEM promptly reimburses the County for all benefit expenses incurred during the Presidential Leave.
  5. The employee shall continue to conform to the [eD](#)epartment rules and regulations that are not inconsistent with Presidential Leave.
  6. There is not a compelling need for the employee to perform County work.

7. The employee's performance meets standards.
  8. When the duration or frequency of Presidential Leave is such that the employee's absence imposes a hardship on Departmental operations, the County may reassign or transfer the individual to a less critical position in his or her class.
- B. Vacation, sick leave, and annual leave accrual rates will apply to the employee as though he or she were on duty status.
  - C. The probation period, if applicable, shall be extended by the length of Presidential Leave. The extended probation period shall end on the first day of the pay period following said date.
  - D. The employee's eligibility for promotional examinations shall not be affected by Presidential Leave.
  - E. In the event emergency recall of employee becomes necessary, Presidential Leave may be suspended or cancelled during the course of the emergency. ACLEM shall not be obligated for reimbursement cost listed in A.3. and A.4 above, for the period that Presidential Leave is suspended or cancelled. [The provisions](#) of A.1. through A.8., above, shall be suspended during said emergency recall.
  - F. Not more than one (1) employee shall be eligible for Presidential Leave at any one (1) time.

### Section 13. Catastrophic Leave

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

### Section 14. Family Leave

#### A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the California Family Rights Act (CFRA). Unless

otherwise provided by this Section, “family leave” under this Agreement shall mean leave pursuant to the FMLA and CFRA.

2. Family leave may be used in the following situations:
  - a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability due to pregnancy, childbirth or related medical conditions;
  - b. The birth of a child, and in order to care for the newborn child within one year of birth;
  - c. Placement of a child for adoption or foster care within one year of the placement;
  - d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child);
  - e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, registered domestic partner, child or parent is on covered active duty or called to active duty status in the Armed Forces;
  - f. Leave to care for a spouse, registered domestic partner, child, parent, or “next of kin” who is a covered service member of the Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
  
3. Employees must request and identify their need for Family Leave. The County and ACLEM agree that certain other types of leave available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

4. Eligibility for Family Leave will be determined according to the requirements of applicable law.
5. Family Leave shall not exceed twelve (12) work weeks for situations covered by Subsection A(2)(a) – (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.
6. Leave taken under the FMLA for disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act. A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.
7. When a request for Family Leave is approved, the Department shall determine whether sick leave, compensatory, vacation time and/or annual leave is to be applied. Such determination shall be consistent with other leave provisions of this Agreement. Regardless of the determination an eligible employee may choose to substitute sick leave, vacation, annual leave or compensatory time for unpaid Family Leave. Paid leave will run concurrently with unpaid Family Leave when taken for an FMLA/CFRA qualifying event.

#### B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the 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 such 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 Department operations.

#### C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the

employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.

2. Employees who request leave to care for a covered service member who is a child, spouse, parent, registered domestic partner, or “next of kin” of the employee must provide written certification from a health care provider regarding the injured service member’s injury or illness.
3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member’s active duty orders or other documentation issued by the military which indicates that the covered military member is on active or called to active duty in a foreign country with the dates of active duty services. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

ARTICLE V      VACATIONSection 1. Accumulation of Vacation

- A. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
- B. During the first three (3) years of employment, a full-time employee in a regular or limited-term position 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). Part-time employees will earn vacation on a pro-rated basis. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to 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. 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 .077 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred sixty [160] 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 vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- D. 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 .0962 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately two hundred [200] hours per year), under the same terms and conditions as for the prior rate of accrual.
- E. 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) hours shall be determined. That 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 employee shall in addition earn .0193 hours of vacation for each hour of pay during his or her regularly scheduled workweek. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates County service.
- F. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with less than ten (10) years of full-time

continuous service shall be three hundred sixty (360) hours or a prorated amount equal to nine (9) weeks of vacation for part-time employees. The maximum allowable vacation credit an employee may accrue at any one (1) time for a full-time employee with ten (10) or more years of full-time continuous service shall be four hundred eighty (480) hours and a prorated amount equal to twelve (12) weeks of vacation for part-time employees. An employee who has accrued the maximum allowable vacation credit will not accrue additional credit until the employee's vacation credit drops below the maximum allowed.

## 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. Effective as soon as practicable following adoption of the MOU, employees with Annual Leave balances and with ten (10) years of continuous full-time County service (20,800 hours) may elect to use a maximum of eighty (80) vacation hours during the fiscal year for approved time off.
- B.C. An Official Leave of Absence shall cause the aforementioned ten (10) years (Article IV, Section 1.D.) of full-time County service to be postponed a number of calendar days equal to the Official Leave.
- C.D. 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 IV, Section 1.D.) of County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- D.E. Additional vacation earned during the period of vacation may be taken consecutively.
- E.F. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- F.G. Vacations shall be scheduled for employees by their Department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G.H. No scheduled vacation will be cancelled except in cases of emergency.
- H.I. Illness while on paid vacation will be charged to sick leave rather than vacation only under the conditions specified in Article III, Section 1.B.5.
- I.J. 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 an Election Board Officer or Election Night Help.

J.K. 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.L. Vacation Cash Out Where Employee Has No Annual Leave Balances

During each fiscal year, an employee who does not have annual leave balances may request to be paid for accrued vacation in either one increment or two (2) separate increments. An employee who, through a cash out of annual leave, depletes all annual leave, shall be permitted to cash out vacation leave in the same fiscal year as the year annual leave is depleted up to no more than an aggregate total of 120 hours of vacation and annual leave in the fiscal year. In all other cases in which an employee does not have annual leave balances, the employee may be paid for no more than ninety (90) hours under the following circumstances:

1. If an employee has 390 or less accrued hours of vacation, the employee shall be permitted to cash out up to ninety (90) hours of vacation leave for the fiscal year. Payment shall be made upon request unless the Agency/Department determines it is not economically and/or operationally feasible.
2. If at any time during a fiscal year an employee has more than 390 hours of accrued vacation hours, the employee shall be permitted to cash out up to ninety (90) hours of the allowed annual cash out of vacation leave for the year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

M. Vacation and Annual Leave Cash Out Where Employee Has Annual Leave Balances

During each fiscal year, an employee who has annual leave balances may request to be paid for accrued annual leave in either two (2) separate increments equaling an aggregate total of one-hundred (120) hours or one (1) increment of no more than one hundred twenty (120) hours under the following circumstances:

1. An employee with over 750 hours of accrued annual leave shall be permitted to cash out one-hundred and twenty (120) hours of annual leave in a fiscal year upon request. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

2. An employee with 750 or less hours of accrued annual leave shall be permitted to cash out sixty (60) hours of annual leave in a fiscal year upon request. The employee may cash out up to an additional sixty (60) hours of annual leave in a fiscal year if determined by the Agency/Department to be economically and/or operationally feasible to do so at the time of the request. In no event shall an employee be paid for more than 120 hours of annual leave in a fiscal year.
3. An employee shall be permitted to cash out vacation or any combination of vacation leave and annual leave, to an aggregate total of 120 hours, if the employee has more than 390 hours of accrued vacation hours at any point in the fiscal year. Payment shall be made upon request unless the County has taken action pursuant to Government Code § 3504.5(b). Unless the County takes further formal action within ninety (90) days pursuant to Government Code § 3504.5(b), employees shall be permitted to resume cash outs upon request.

Example #1: If an employee has 755 hours of annual leave, and the employee currently has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 120 hours of annual leave, but no vacation leave;
2. Cash out 120 hours of vacation, but no annual leave; or
3. Cash out any combination of annual leave and vacation leave to a maximum of 120 hours.

Example #2: If an employee has 700 hours of annual leave, but the employee currently has 390 or less accrued vacation hours, the employee may only cash out up to 60 hours of annual leave. Annual leave in excess of 60 hours, up to a maximum of 120 hours, may be permitted at the discretion of the Agency/Department.

Example #3: If an employee has 60 hours of annual leave and the employee has more than 390 hours of accrued vacation hours, the employee may, for example, do any one of the following:

1. Cash out 60 hours of annual leave and up to 60 hours of vacation leave.
2. Cash out less than 60 hours of annual leave and up to 120 hours of vacation leave which does not, when added to the annual leave cash out, exceed a total of 120 hours.
3. Cash out up to 120 hours of vacation leave and any amount of accrued annual leave which does not, when added to the vacation leave cash out, exceed a total of 120 hours.

#### N. Vacation and Annual Leave Cash Out – Compensation Earnable

Vacation and/or annual leave cash outs are compensation earnable (pensionable) as allowed by law. Members should contact the Orange County Employees Retirement System (OCERS) for further details.

## ARTICLE VI ANNUAL LEAVE PLAN PROVISIONS

These Annual Leave provisions apply only to regular and limited term employees hired on or after July 15, 1977 and before the first full pay period in January 2017, except as otherwise indicated in this Article.

As discussed more fully in Section 3 of this Article, effective the first pay period of January 2017, employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.

### Section 1. 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. Medical and dental office appointments when absence during working hours for this purpose is authorized by the [ed](#) department.
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 critical 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, registered domestic partner, child, stepchild, grandchild, grandparent, or legal guardian.
5. Absence from duty because the employee's presence is needed to attend to the illness of the employee's child, spouse, parent or registered domestic partner, to the extent required by Labor Code section 233.
6. Absence from duty because: (1) the employee's presence is needed to attend to the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member, or (2) an employee is a victim of domestic violence, sexual assault, or stalking and the employee uses the leave time for the purposes described in Labor Code sections 230(c) and 230.1(a). Use of this leave is limited to three (3) working days per year. For purposes of this Section "family member" means child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling as those terms are defined by Labor Code section 245.5(c).
7. Absence from duty because of personal business.

8. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.
- B. Except as restricted by law, an employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the eD department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
  - C. Annual Leave shall not be applied to absences which occur on a County holiday.

### Section 2. General Provisions

- A. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- B. Vacations (annual leave) shall be scheduled for employees by their eD department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- C. 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.
- D. No scheduled annual leave will be cancelled by the eD department except in cases of emergency.
- E. No employee shall be permitted to work for compensation for the County in any capacity during the time of his or her paid annual leave from the County service except as an Election Board Officer or Election Night Help.

### Section 3. Payoff of Unused Annual Leave

- A. Payoff of unused annual leave during employment shall be administered according to Article V. Sections 2.K and 2.L.
- 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	240 hours maximum paid at 100%
3 but less than 10	360 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 480 hours are paid at 100%; remaining balance obtains cash value of 2% for each year of service, to a maximum of 50% i.e., 10 years of service equals 20% cash value for remaining balance; 25 or more years of service equals 50% of the remaining balance after deducted from 1600 hours maximum.

- C. Notwithstanding the above, no employee may receive a payoff paid at 100% that exceeds 480 hours for combined accrued vacation and annual leave. Accrued vacation will be paid at 100% up to the accrual limits specified in Article V, Section 1.F; remaining hours, up to the accrual limits specified in Article V, Section 1.F, will be paid from the annual leave accrual. (Accrued vacation that is taken as time-off for purposes of retirement (See Article V, Section 2), will be considered as a payoff for purposes of this provision.) Employees with 10 or more years of service will be eligible to receive prorated payouts at the time of separation in the percentages referenced above for all accrued annual leave hours remaining after the 100% payout, up to 1600 hours.
- D. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service shall be prorated.
- E. Annual Leave Payout on Retirement

An employee who is 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 under the following conditions:

1. 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% (i.e., 240 hours for employees with less than three (3) years of service, 360 hours for employees with at least three (3) years of service but less than ten (10) years of service, 480 hours for employees with at least ten (10) years of service). If the employee does not take time off or the amount of leave taken as time off does not exceed the amount of hours the employee is

eligible to be paid at 100% the remaining balance, to a maximum of 1600 hours (less maximum number of hours paid at 100%) shall be paid in accordance with payoff provisions set forth in Section 4(B) of this Article.

2. Notwithstanding the above, any annual leave taken as time off during the final two (2) pay periods of employment with the County will be deducted from the annual leave payoff provisions set forth above. This provision shall not apply to the use of family leave, workers compensation leave, or other statutorily protected leave during the final two (2) pay periods of employment.
- F. Notwithstanding any other provision of this Memorandum of Understanding, if an ACLEM member is killed in the line of duty (in accordance with Penal Code section 830.5), one hundred (100) percent of the employee's Annual Leave balance will be paid to the employee's estate.

Section 4. Cessation of Annual Leave, Transition Time Period to Use Annual Leave

- A. ~~Effective upon the first pay period in January 2017, e~~Employees will no longer accrue annual leave. Instead, employees will accrue sick leave and vacation time pursuant to Article IV, Section 1. and Article V, Section 1.
- B. Annual Leave that has been accumulated prior to the adoption of this MOU may be retained, provided however, that an employee who needs to use sick leave or vacation must first use accrued annual leave prior to use of sick leave or vacation, until all annual leave has been taken. Except for the eighty (80) vacation hours that may be used pursuant to Article V, Section 2.B.
- C. ~~During the 90 day period beginning 30 days after the adoption of this MOU by the Board of Supervisors, employees will have a one-time opportunity to convert annual leave that has been accumulated prior to the implementation of this MOU to sick leave.~~

ARTICLE VII HOLIDAYSSection 1. Holidays Observed

- A. Except as modified in Section 1.B., below, County employees shall observe the following holidays:

~~2018~~9: ~~New Year's Day, January 1~~  
~~Martin Luther King, Jr.'s Birthday, January 15~~  
~~Lincoln's Birthday, February 12~~  
~~Washington's Birthday, February 19~~  
~~Memorial Day, May 28~~  
 Independence Day, July 4  
 Labor Day, September ~~3~~2  
 Columbus Day, October ~~8~~14  
 Veteran's Day, November ~~1~~21  
 Thanksgiving Day, November ~~2~~28  
 Day After Thanksgiving, November ~~2~~39  
 Christmas Day, December 25

~~2019~~20: New Year's Day, January 1  
 Martin Luther King, Jr.'s Birthday, January ~~1~~24  
 Lincoln's Birthday, February 12  
 Washington's Birthday, February ~~1~~8  
 Memorial Day, May ~~2~~7  
~~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~~

~~2020~~21: ~~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 5~~  
~~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 24 (Observed)~~  
~~New Year's Day, December 31 (Observed)~~

2022: 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 26 (Observed)

2023: New Year's Day, January 2 (Observed)  
Martin Luther King, Jr.'s Birthday, January 16  
Lincoln's Birthday, February 12  
Washington's Birthday, February 20  
Memorial Day, May 29

- B. Except as provided in Section 1.E., below, if a holiday, designated in 1.A., above, falls on a Saturday but is observed on the preceding Friday by the Superior Court, employees who have been designated by the County as being necessary to the operation of said Court may be allowed to observe the Court observed Friday holiday in lieu of the Saturday holiday provided such employees are given notice of their work schedule change not less than thirty (30) calendar days prior to the holiday.
- C. When a holiday other than Christmas Day, falls on a Sunday, the next day shall be observed as the holiday.
- D. When New Year's Day falls on a Saturday, the Friday immediately preceding shall be observed as the holiday.
- E. When Christmas Day or New Year's 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 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for both December 25 and the following Monday, or for both January 1 and the following Monday.
- F. When Christmas Day or New Year's 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 or January 1, respectively, as part of his or her normal work schedule. In such cases the employee may, with Department approval, observe the holiday on December 25 or January 1, respectively. Under no circumstances shall an employee receive holiday compensation for

both December 25 and the Friday immediately preceding or for both January 1 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. A 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.
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 ½) times the employee's basic hourly rate for the number of hours actually worked, to a maximum of eight (8) hours.
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. There shall not be any duplication or pyramiding of rates paid under this Section. The total amount of holiday pay received under Section 3.A. above and holiday compensatory time received under Section 3.C. above shall not exceed the total number of hours that the employee is regularly scheduled to work on a shift.

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

F.G. 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 Memorandum of Understanding, 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.H. 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. Employees shall be paid for all compensatory time in excess of eighty (80) hours.

## ARTICLE VIII REIMBURSEMENT PROGRAMS

### Section 1. Mileage Reimbursement

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 the Internal Revenue Service standard mileage rate for the business use of a car for each mile driven during each monthly period.

### 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.

### Section 3. Law Enforcement Transportation Supplement

In recognition of the fact that D.A. Investigative Commanders/Assistant Chief Investigators in the District Attorney's Office drive their private vehicles, on average, in excess of nine thousand (9000) miles per year in the performance of County law enforcement duties, purchase additional liability insurance, transport witnesses and prisoners and incur other miscellaneous expenses, effective August 7, 2015, the County shall pay a five hundred, fifty (\$550) dollar annual transportation expense allowance to D.A. Investigative Commanders/Assistant Chief Investigators employed in the District Attorney's Office as of August 1 of each year who are regularly required to use a private vehicle in their employment. Eligible employees must submit a claim on or before August 31 of each year.

### Section 4. Optional Benefit Plan

- A. Eligibility - a full-time regular, limited-term or probationary employee is eligible to receive the Optional Benefit provided he or she is continuously employed in a full-time capacity. Part-time employees whose normal workweek consists of twenty (20) hours or more will be eligible to receive fifty (50) percent of the Optional Benefit amount available to full-time employees. Employees hired or promoted after the commencement of a plan year will be eligible for the Optional Benefit on a pro-rata basis the first day of the month following the twenty-eighth (28<sup>th</sup>) day of employment in an eligible classification.

An employee on an unpaid leave of absence during the annual Open Enrollment period will be provided the opportunity to make his/her elections for the upcoming plan year. However, if the employee has not returned to work in an eligible status on January 1<sup>st</sup> of the new plan year, his/her elections will be suspended until he/she returns to work. Upon return to work, elections and benefits will be reinstated on a prorated basis, effective the first day of the month following the return to work in an eligible classification.

- B. Each eligible full-time employee shall be entitled to select benefits from those listed below at a cost to the County, and be reimbursed for eligible expenses in an amount not to exceed three thousand five-hundred (\$3,500) dollars, effective the beginning of each calendar year. Eligible part-time employees shall be reimbursed in an amount not to exceed one-half of the Optional Benefit Plan for full-time managers.

The options available shall include the following types of benefits such as:

1. Cash (taxable);
  2. Health/Accident;
    - a. Health care and/or dental expenses which are not reimbursed through any other source (employee and/or dependents) as permitted by state and federal law, regulations, and guidelines, and as permitted by the County's Section 125 Plan Document. Examples of items covered under this provision may include such items as health and dental insurance deductibles, vision care, lenses and frames for eye glasses, and orthodontic treatment;
      - i. Any portion of the Optional Benefit allocated towards the health reimbursement category as outlined in Section 2. a. will be subtracted from the amount the employee is eligible for under the County's Health Care Reimbursement Account (if the employee participates) and subject to state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.
      - ii. Claims shall be made in the manner and/or form designated by the County or its designee, and shall be paid subject to state and federal law, regulations and guidelines, and as permitted by the County's Section 125 Plan Document.
      - iii. Any portion of the Optional Benefit allocated towards the health reimbursement category in which claims are not incurred within the plan period shall remain County funds.
    - b. Employee's share of Accidental Death and Dismemberment insurance premiums for employee and dependents available through the County. The AD&D premium option will be eliminated not be effective Plan Year 2020 or as soon thereafter as administratively feasible.
  3. The County's Defined Contribution Plan: A pre-tax contribution to the County's Section 457(b) Defined Contribution Plan.
- D. An employee who does not make an election during the election period shall receive a taxable cash lump sum following the close of the election period.

Employee elections are irrevocable unless permitted by state and federal law, regulations and guidelines, and allowed by the County's Section 125 Plan document. For expenses to be eligible, they must be incurred during a plan period in which an employee is eligible. Claims may be filed at any time during the plan period and all claims must be filed no later than March 31<sup>st</sup> of the next year.

- E. The Chief Human Resources Officer or designee shall administer the plan in accordance with the stated purpose and pursuant to state/federal law.

Section 5. Uniforms

The County will provide, but will not launder or dry clean, required uniforms for the following classes of employees in the Sheriff's Department:

- Lieutenants
- Captains

Section 6. Educational and Professional Reimbursement

Effective the first full day of the first full pay period following adoption of the MOU, eligible employees may receive educational and professional reimbursement at a maximum of \$10,000 per fiscal year. Terms and conditions for this reimbursement are set forth in the Personnel and Salary Resolution.

ARTICLE IX      DISCIPLINARY ACTION

No regular, limited-term, or probationary employee shall receive a disciplinary action except for reasonable cause.

Section 1. Pre-Disciplinary Hearing for Suspension, Reduction, or Discharge

- A. In suspending an employee, reducing a regular, limited-term, or probationary employee, 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 eD 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 ACLEM in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying, or canceling the proposed disciplinary action on or prior to the effective date of such action.
- F. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 2. and 3. of this Article.

- G. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 4 of this Article.

### Section 2. 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 County Executive Officer, which may be referred directly to arbitration.

### Section 3. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class 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 shall be initiated at Step 2 of the grievance/appeal procedure, except for reductions imposed by the County Executive Officer which may be referred directly to arbitration.

### Section 4. 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 affected unless approved by the Chief Human Resources Officer except for discharges imposed by the County Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. A discharge may be appealed to advisory arbitration pursuant to Article X, Section 8. B. or to remedies provided in Article X, Section 9.

### Section 5. Investigatory Meeting

- A. An employee required to attend an investigatory meeting shall receive advance 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 be represented by a representative of his or her choice 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, minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
  - 2. matters which have other means of appeal, but not limited to, matters which may be appealed through the Orange County Merit System Selection Rules and Appeals Procedure or the Workers' Compensation Appeals Board;
  - 3. position classification;
  - 4. performance evaluations with a standard or equivalent rating.

### 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) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any County 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 employee or ACLEM any step of the grievance procedure may be waived.
- D. The Chief Human Resources Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, department-wide or County-wide basis in an emergency situation. ACLEM 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 sixty (60) calendar days from the date of filing the written grievance at Step 1.
- H. A grievance alleging discrimination shall first be referred to the County Equal Employment Opportunity (EEO) Office for intake, review, and if applicable, investigation. The grievant, or his/her representative if represented, shall be notified in writing of the grievance being referred to the EEO Office. The timelines for a grievance alleging discrimination shall automatically be tolled until the EEO Office has notified the grievant and/or his/her representative of the disposition of the allegation(s), at which point the time limits for processing the grievance shall resume.

### 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.

### Section 4. Employee Representation

An employee may represent himself or herself or may be represented by an agent of ACLEM in the formal grievance/appeal procedure. If an employee chooses not to be represented by ACLEM, ACLEM may have a representative present during the grievance/appeal procedure and/or arbitration and, if necessary, shall have the right to present ACLEM's interpretation of provisions of this Agreement at issue. Such presentation shall not include the merits of the grievance. The decision of the arbitrator in such case shall not be precedent setting and shall not be admissible in any subsequent dispute between the County and ACLEM.

### 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 to resolve the matter, as prescribed herein, 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 to resolve the grievance/appeal, as prescribed herein, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through review of appropriate County records 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 unless his or her supervisor determines that such interruption or absence will not 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 toward 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. [For grievances alleging](#)

discrimination, the timelines set forth below shall be tolled as provided in Section 2.H.

Step 1: Department Head

An employee may formally submit a grievance to the Department Head 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 suggested solution. Within seven (7) calendar days after the receipt of the written grievance, the Department Head or his or her representative(s) shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given to the grievant.

Step 2: Chief Human Resources Officer

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) a written reprimand; or
- c) a probationary release alleging discrimination or employee rejected from probation for acts of misconduct (to the extent covered by POBR),

it may be appealed in writing to the Chief Human Resources Officer within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction ordered by an 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 Chief Human Resources Officer 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 Chief Human Resources Officer in b or c, above shall be final and binding and shall not be referable to higher County authority or arbitration.

Section 8. Referrals to Arbitration

A. Interpretation/Application of MOU Language

If a grievance is not resolved under Step 2, an arbitration request may be presented in writing to the Chief Human Resources Officer within seven (7) calendar days from the date a decision was rendered at Step 2. As soon as practicable thereafter, or as otherwise agreed to by the parties, an arbitrator shall hear the grievance. If, within three hundred sixty five (365) days of the request for arbitration, the County and ACLEM have not yet initially calendared the appeal with an arbitrator, the grievance is considered withdrawn and finally resolved. The arbitration hearing itself need to not occur within the three hundred sixty five (365) day window.

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. Appeals of Suspensions/Reductions

1. Submission Procedure

- a. If an appeal from suspension or reduction is not settled at Step 2, a request for arbitration may be presented to the Chief Human Resources Officer within seven (7) calendar days from the date the decision was rendered.
- b. An appeal from any suspension or reduction imposed by the County Executive Officer may be presented to the Chief Human Resources Officer within ten (10) calendar days from the date the action becomes final.
- c. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- d. The issue in all appeals of suspensions/reductions shall be:  
  
Was (employee's name) suspended/reduced for reasonable cause?  
If not, what is the remedy?
- e. As soon as practicable after a suspension/reduction appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal, provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.

2. Findings of Facts and Remedies

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

- a. If the arbitrator finds that the suspension/reduction was taken for reasonable cause, he or she shall sustain the action.
- b. 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. The decision of the arbitrator in matters of suspension/reduction shall be binding on all parties.

C. Appeals of Discharges

1. Submission Procedure

- a. A discharge may be appealed directly to arbitration within ten (10) calendar days from the date the decision was rendered.
- b. All appeals shall be signed by an employee or by a representative of ACLEM and shall be submitted in writing.
- c. The issue in all appeals of discharge shall be:  
  
Was (employee's name) discharged for reasonable cause? If not, what is the remedy?
- d. As soon as practicable after a discharge appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal; provided however, prior to going to arbitration the parties may agree to utilize mediation in an effort to resolve the appeal.
- e. The arbitrator shall advise that the order of discharge be sustained, modified, or rescinded.
- f. The decision of the arbitrator in matters of discharge shall be advisory and non-binding.

D. Probationary Releases Alleging Discrimination or Probationary Release Based on Acts of Misconduct (to extent provided by POBR)

1. The issue to be submitted to the arbitrator in grievances filed pursuant to Article II, 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 unlawful discrimination by the County?

- b. If so, what shall the remedy be under Article X Section 8.A. of this Memorandum of Understanding?

2. Findings of Facts and Remedies

- a. In the event the arbitrator finds no unlawful discrimination, the grievance shall be denied and the issue of remedy becomes moot.
- b. In the event the arbitrator finds unlawful discrimination, 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 unlawful discrimination, and also finds that the discrimination 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. The decision of the arbitrator in matters of probationary releases alleging discrimination shall be binding on all parties.

E. General Provisions

1. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except in matters of discharge and when the appealing party solely alleges unlawful discrimination, in which case the County shall bear the full cost. When the grievance involves both discrimination and other arbitral issues, the proper division of costs shall be determined by the arbitrator.
2. Grievance/Appeal hearings by an arbitrator shall be private.
3. 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 Mediation and 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.

4. 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.
5. 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.
6. 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.
7. 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.

8. 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.
9. The parties agree to forego the use of briefs and transcripts whenever practicable.
10. The decision of the arbitrator shall be binding on both parties except in matters of discharge. In matters of discharge the arbitrator's decision shall be advisory and non-binding.

#### Section 9. Court Action

Notwithstanding anything to the contrary in this Article, a discharged employee shall have the right at his/her option, to file an action in a court of competent jurisdiction. Prior to filing such action the employee must exhaust the steps of the grievance procedure set forth in Sections 6. and 7. of this Article. The employee may then elect to appeal the discharge to advisory arbitration or file a lawsuit. In any such action, the employee shall have the right to pursue any claims he/she might have under statutory or common law, and shall not be limited to an action for breach of contract. The County agrees that it will not assert that the employee failed to exhaust his/her contractual remedies. If an employee elects to file suit, the action shall be subject to the applicable statute of limitations.

## ARTICLE XI LAYOFF PROCEDURE

### Section 1. General Provision

This procedure shall not apply to a temporary layoff of less than four (4) consecutive weeks.

### Section 2. Order of Layoff

- A. When a reduction in the work force is implemented, each Department Head shall determine, subject to CEO approval, which employees are subject to layoff based on the needs of the organization.
- B. In considering which employees shall be subject to layoff, consideration shall be given to knowledge and skills related to organizational need and the employee's performance. Where a Department determines that two or more employees' knowledge, skills, and performance are generally equivalent, years of service shall be given consideration.

### Section 3. Notification of Employees

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.

### Section 4. Voluntary Reduction from Classes Designated as Vulnerable to Layoff Appeal

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 placed on the Departmental Rehire List pursuant to Article XI, Section 5.

### Section 5. Rehire Lists

- A. The names of persons laid off shall be placed on a Departmental Rehire List for each class in the occupational series at or below the level of the class from which laid off.
- B. Persons on the Departmental Rehire List for that class will be considered prior to those eligible on other types of eligible lists. If rehire is offered to a class other than that from which the person was laid off, such person must first meet the minimum qualifications and pass any required performance test for that class.
- C. Names of persons placed on the Departmental Rehire List shall remain on the list for two (2) years, except that:

1. A person who rejects or fails to respond within five (5) calendar days to an offer of employment in a particular class shall be removed from the list for that class.
  2. A person who declines referral for an interview in a particular class shall be removed from the list for that class.
  3. A person who retires from the County shall be removed from all lists.
- D. In the event two (2) or more agencies/departments are consolidated while Departmental Rehire Lists are in effect, such lists shall be combined and treated as one (1) list by class in accordance with the preceding provisions. When a transfer of one (1) or more functions of one Department to another Department occurs, employees previously laid off from such function(s) who are on a Departmental Rehire List for the Department losing such function(s), shall be removed from such list and shall be placed on a Rehire List by class for the Department acquiring such function(s) and treated in accordance with the preceding provisions.

#### Section 6. Status on Rehire

- A. An employee who has been laid off under the provisions of this Article and is subsequently rehired 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 or remaining annual leave balance credited to the employee's account when laid off shall be restored.
  2. All service hours held upon layoff shall be restored.
  3. All prior service shall be credited for the purpose of determining sick leave, vacation leave, 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 II, Sections 1.B.1. or 1.B.2., if reemployment is in a higher class or an occupational series different from that employed in at the time of layoff.

## ARTICLE XII ON-THE-JOB INJURIES, WORKERS' COMPENSATION

### Section 1. On-the-Job Injuries

#### A. Medical Treatment

Whenever an employee sustains an injury or disability arising out of and in the course of County employment which requires medical treatment, the employee shall obtain such treatment pursuant to the appropriate California Labor Code sections.

#### B. Disability Payments and Leave

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 be compensated and placed on Leave pursuant to California Labor Code Section 4850. An employee who is eligible for benefits under California Labor Code Section 4850 shall be placed on 4850 Leave.

### Section 2. Exhaustion of 4850 Benefits

- A. When an employee has exhausted all rights and benefits provided by California Labor Code Section 4850, and such employee continues to be unable to return to work due to an injury or disease arising out of and in the course of County employment, such employee shall be treated in the following manner:
1. he or she shall be entitled to all benefits provided by California Workers' Compensation Law; and
  2. he or she shall be placed on Workers' Compensation Leave pursuant to Article IV, Section 11.; and
  3. at the employee's option, all sick leave, annual leave, compensatory time and vacation shall be added to the workers' compensation temporary disability benefit, if eligible for such benefit, which shall equal one hundred (100) percent of the employee's base salary until such accruals are exhausted; or
  4. if the employee is not eligible for temporary disability or exhausts his or her temporary disability benefit, at the employee's option such accruals shall be continued until they are exhausted. An election to continue accruals shall be irrevocable.
- B. Upon exhaustion of all sick leave, compensatory time and vacation, or annual leave the employee shall not accrue sick leave, vacation or annual leave for the remainder of Workers' Compensation Leave.

- C. 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 of benefits shall be considered County service for merit increase eligibility and completion of the probation period.
- D. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of sick leave, vacation or annual leave 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, annual leave, sick leave, compensatory time, and/or vacation time may be used, at the employee's option, in that order.

ARTICLE XIII MEDICAL INSURANCESection 1. Medical InsuranceA. Medical Insurance Contribution

1. ~~4.~~—ACLEM employees (actives and retirees) will be covered by an AOCDS medical benefit plan.

~~2.~~ ~~2.~~ ~~As stated in the AOCDS MOU, effective the first pay period commencing on and after January 1, 2016 the County will contribute \$1,174 to the AOCDS Medical Insurance Trust per month for each full-time enrolled regular, limited-term and probationary law enforcement management employee on paid status. Effective at the start of the first pay period commencing on or after January 1, 2018, the County shall contribute \$1,280 per month for each full-time enrolled regular, limited-term, and probationary employee on paid status in this unit, except as noted in B, C, D, and E below.~~ Effective at the start of the first pay period commencing on or after January 1, 2019, the County shall contribute \$1,395 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E. below.

~~3.~~ Effective July 2, 2021 the County shall contribute \$1,493 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.

~~4.~~ Effective July 1, 2022 the County shall contribute \$1,591 per month for each full-time enrolled, regular, limited-term, and probationary employee on paid status in this unit, except as noted in B., C., D., and E., below.

~~2.5.~~ For newly hired employees, the County contributions will be effective beginning the first day of the month following the date of employment or the insurance start date, whichever is earlier. During the term of this MOU, any negotiated increase to the amount of the County's contribution to the AOCDS Medical Insurance trust as stated in the AOCDS MOU will also be applicable to ACLEM employees.

~~3.6.~~ ~~3.~~—Law enforcement managers who retired after July 1, 1988 will be covered by the AOCDS retiree medical benefit plans. Law Enforcement Managers who retired prior to July 1, 1988 will continue to be covered by the County's health plans.

B. The County's medical insurance contribution for a part-time employee whose normal workweek consists of at least twenty (20) hours shall be one half (1/2) the rate for a full time employee. No contribution shall be made for an employee whose normal assigned hours are reduced to less than twenty (20) hours in a full workweek.

- C. The County shall contribute one half share of the monthly medical insurance contribution for enrolled employees, prorated over twenty-six (26) pay periods each year. The amount of the contribution each month will be based on the number of pay periods in that month. The contributions shall be determined by counting any employee in a paid status during some portion of the pay period.
- D. The County shall contribute the actual costs of coverage for Employee Married to Employee. For two employees to be eligible for enrollment in this status, they must both be working full-time, be enrolled in one health plan, and one employee must enroll as a subscriber and the other as a dependent. The County shall contribute to the AOCDS trust fund when the subscriber is a member of one of these representation units.
- E. For employees who are on approved leave which meets the requirements of Family Leave pursuant to Article IV, Section 15 and applicable law, the County shall continue to make medical insurance contributions as described in A., B., C. and D., above.

### Section 2. AOCDS Medical Insurance Trust Fund

- A. ACLEM employees will be enrolled in AOCDS medical benefit plans which shall provide medical benefits similar to those offered by the County. All requirements of the AOCDS Medical Insurance Trust Fund and AOCDS health plans as stated in the AOCDS MOU shall apply to ACLEM. Any negotiated change to the AOCDS Medical Insurance Trust Fund requirements and provisions or AOCDS health plans as stated in the AOCDS MOU will also be applicable to ACLEM.
- B. ACLEM shall defend, indemnify and hold the County harmless from any claims or legal action brought by employees in these representation units arising out of, or in any way related to, medical insurance or benefits provided pursuant to this section. This obligation shall not arise with respect to any claim or legal action brought by ACLEM or employees concerning coverage overlap between the respective County and AOCDS plans.
- C. Employees eligible for coverage under a County health plan as a result of change of County representation unit shall be enrolled without regard to pre-existing conditions of illness or injury for plan benefits for themselves or their enrolled dependents.

### Section 3. Other Insurance Coverage

The County will provide to all full time regular, regular limited-term and probationary employees the following provided the employee's normal workweek consists of at least forty (40) hours:

- A. Life Insurance and Accidental Death and Dismemberment Insurance

1. Basic life insurance and accidental death and dismemberment insurance in the amount of one hundred thousand dollars (\$100,000) per full-time employee without proof of insurability. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to Imputed Income requirements as required by law.
  2. Employees will have the option to purchase additional life insurance coverage options without proof of insurability if purchased within thirty (30) days of eligibility. Some levels of additional life insurance coverage, or any additional life insurance coverage purchased after thirty (30) days of eligibility require proof of insurability. Employees will have the option to purchase additional supplemental life and accidental death and dismemberment coverage including dependent coverage. Such insurance will be subject to the limitations of liability contained in those insurance policies. Benefits are subject to imputed income requirements as required by law.
- B. Short-Term Disability Insurance Plan at no cost to the employee, to provide, after sick leave, or 192 hours of annual leave for full-time employees or 96 hours of annual leave for part-time employees (whichever is applicable, depending on which leave plan employee is covered by) is exhausted, sixty (60) percent of salary for up to one (1) year for certified non-occupational injury or illness. If the employee applies more than 192 hours of annual leave or 96 hours of annual leave for part-time employees toward the absence, eligibility for Short-Term disability will begin when that portion of annual leave is exhausted. The plan will also provide for continuation of the County's share of premiums for health, dental and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
- C. Long-Term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
- D. The County will provide dental insurance for the employee and dependents to all full-time regular, limited-term, and probationary employees.

Part-time regular, limited-term, and probationary employees will have the option of purchasing dental insurance for the employee and dependents by paying one-half the monthly rate paid by the County for full-time employees, provided the employee's normal workweek consists of at least twenty (20) hours.

#### 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 by state and federal law, regulations, and guidelines. 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 insurance coverage as permitted by state and federal law, regulations, and guidelines.

### Section 5. Retiree Medical Plan

Effective August 1, 1993, and as amended herein by the Board of Supervisors, the County shall administer a Retiree Medical Plan (Plan) for employees to include a Retiree Medical Grant (Grant) or a lump sum benefits (Lump Sum) as set forth below. New employees hired on or after June 19, 2009 are not eligible for the Grant. New employees hired on or after June 23, 2006 are not eligible for the Lump Sum.

#### A. Retiree Medical Grant

1. Effective August 1, 1993 and as amended by the Board of Supervisors, the County implemented a Retiree Medical Plan ("the Plan") for employees who have retired from County service and who meet certain eligibility requirements of the Plan. The Plan does not create any vested rights to the benefits on the part of any employee, retiree, or any other person. Upon paid County retirement, an eligible retiree who meets certain eligibility requirements of the Plan shall receive a Grant. The Grant may be applied only towards the cost of retiree and dependent coverage in an AOCDS health insurance plan and/or Medicare Part B premiums as provided below.
  - a. Upon implementation for eligible retirees, the Grant shall be an amount based on ten (10) dollars per month for each full year of credited service to a maximum of twenty-five years. In each calendar year, the amount of such Grant shall be adjusted by the average percentage increase in County retiree health plan premiums, not to exceed three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
    1. The accruals of years of service towards the Grant amount for employees were frozen as of June 19, 2009 (the beginning of the pay period of Board adoption).
  - b. The Grant will be adjusted as follows:
    1. 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 Medicare Part A without paying a premium) and Medicare Part B, or immediately if the retiring employee is eligible for Medicare

Part A (without paying a premium) and Medicare Part B, as of the date of retirement.

2. The Medicare reductions in provisions A.1.b.1 do not apply to a retiree or surviving dependent eligible for the Grant who was retired and was eligible for Medicare Part A (if eligible at no cost) and Medicare Part B on or before September 26, 2006.
- c. All employees who become eligible for a Grant shall be provided a one (1) time opportunity of at least thirty (30) days from the date they retire to enroll in an AOCDS offered health plan or Medicare. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any eligibility for a Grant, if eligible, and enrollment in a County offered retiree health plan.

#### B. Retiree Medical Plan Lump Sum: Termination; Phase Out

1. An employee who was employed by the County prior to June 23, 2006 and who separates from County service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with B. 2. below.
2. An employee who was employed by the County prior to June 23, 2006, who thereafter separates from the County and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a County or AOCDS-offered health plan and/or receipt of a Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

#### C. Eligibility Requirements for Retiree Medical Grant

1. Retiree must be retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System (OCERS). Employees hired on or after June 19, 2009 are not eligible for the Grant. For an employee who was continuously employed by the County prior to June 19, 2009, any hours of service performed in periods on or after June 19, 2009 shall be included as a part of the credited service towards the Grant eligibility requirements if the employee is continuously employed by the County from June 19, 2009 until his or her

retirement. Accrual towards the Grant amount is frozen as set forth in Section 5.A.1.a.1.

Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

2. Retiree must have retired with at least ten (10) years of credited County service except as provided in C.2.a., b., c., and d., below:
  - a. A retiree who was hired before June 19, 2009 and receives a service-connected disability retirement pension through OCERS shall be eligible for a Grant regardless of their actual years of credited County service. Their Grant shall be based upon the actual years of credited County service.
  - b. A retiree who was hired before June 19, 2009 with a minimum of five years of credited County service who receives a non-service connected disability retirement pension through OCERS shall be eligible for a Grant based on actual years of credited County service. An employee with less than five (5) years of credited County service who receives a non-service connected disability retirement pension through OCERS shall not be eligible for a Grant.
  - c. A separated employee with less than ten (10) years of credited County service who has requested a service or non-service connected disability retirement pension through OCERS shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Orange County Board of Retirement.
  - d. A separated employee who receives a Lump Sum benefit pursuant to this Section shall be ineligible for the Grant if, at a later date, the OCERS grants a disability retirement.
3. All eligible retirees and enrolled dependents who are age sixty-five (65) or older, or Medicare eligible (i.e. early Medicare), must be enrolled in Medicare Part B in order to be eligible for the Grant. All eligible retirees and dependents who are entitled to Medicare Part A coverage at no cost must be enrolled in Medicare Part A to be eligible to receive the Grant.
4. Deferred Retirement
  - a. An employee who is eligible for paid retirement at the time he or she separates from County service, but elects deferred retirement, may defer participation in the Grant until such time as he or she becomes an active retiree.

- b. An otherwise eligible employee who is not eligible for paid retirement at the time he or she separates from County service but is eligible for and elects deferred retirement shall not become eligible for participation in the Grant.
5. For purposes of this Section, a full year of credited 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 full year of service. Hours of service performed in periods before August 1, 1993 shall be counted toward credited service only if the employee is continuously employed by the County from August 1, 1993 until his or her retirement.

#### D. Survivor Benefits

1. A surviving dependent of a retiree who was eligible to receive a Grant, as stated above in A through C, shall be eligible for fifty (50) percent of the Grant authorized for the retiree.
2. A surviving eligible ACLEM retiree who qualifies for a monthly retirement allowance who was married to an ACLEM, AOCDS, or County retiree who was also eligible for a Grant shall receive the survivor benefit described in D.1., above, or his or her own Grant, whichever is greater. A retiree may not receive both a benefit as a surviving dependent, as stated in D.1. and his or her own Grant.

#### E. Employee Contribution

1. Except as provided in E.2., E.3., and E.4. below, effective June 19, 2009, employees shall continue to contribute three and six-tenths percent (3.6%) of their bi-weekly base salary, exclusive of overtime and premium pay, to offset the Annual Required Contribution (ARC) to continue the Grant for eligible retirees. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
2. Except as provided in E.4. below, employees hired on or after the first day of the first full pay period that falls in the month after Board adoption of a Resolution adopting the "3% at 55" safety retirement formula shall contribute two percent (2%) of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the Retiree Medical Program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.
3. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% @at 50" safety retirement

formula shall have their ARC contribution reduced from 3.6% to 1.6% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

4. Effective either at the start of the first payroll period commencing on or after the Board of Supervisors' adoption of the 2015-2018 MOU or the first pay period commencing on or after July 10, 2015, whichever is the latter, employees covered under the "3% at 55" safety retirement formula shall have their ARC contribution reduced from 2.0% to 0% of their bi-weekly base salary, exclusive of overtime and premium pay, through payroll deductions to offset the Annual Required Contribution for the retiree medical program. Contributions shall be transferred to the County of Orange Retiree Medical Trust.

#### F. General Provisions

1. AOCDS shall administer the health insurance program for retirees of this unit, subject to the requirements set forth in this section.
2. Retiree health plan premiums shall be 10% higher than active employees' health plan premiums.
3. AOCDS and ACLEM shall provide to the County all information necessary for the County to administer the Plan including, but not limited to, retiree health insurance enrollment information, verification of Medicare enrollment and verification of the premiums for all health insurance plans.

#### G. Health Reimbursement Account

Effective October 12, 2007, the County established a Health Reimbursement Account (HRA) for current and future employees. Members of ACLEM began participation in the HRA on June 19, 2009. The County and the HRA administrator, with the oversight of the Health Reimbursement Account Advisory Committee, shall administer the program subject to the requirements set forth in the Internal Revenue Code and the Health Reimbursement Arrangement Plan Document.

1. Effective June 19, 2009, employees began contributions of one (1) percent of their bi-weekly base salary, exclusive of overtime and premium pay, to fund their Health Reimbursement Account Plan.
2. Effective June 19, 2009, the County began contributions of one (1) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.
3. Effective November 11, 2016, the County began contributions of two (2) percent of each eligible employee's bi-weekly base salary to fund their

Health Reimbursement Account Plan. The employee contribution referenced in subsection 1 above, shall be reduced from one (1) percent to zero (0) percent.

4. Effective as of July 6, 2018, the County will contribute four (4) percent of each eligible employee's bi-weekly base salary to fund their Health Reimbursement Account Plan.

#### Section 6. Reopener and Responsibilities of Parties as a Result of ACA

The County may reopen negotiations on this Article and other provisions of the MOU (e.g., Optional Benefits program in Article VII, Section 4, Flexible Spending Accounts in Article XX), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax is expected to begin in 2018. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits).

The Parties acknowledge that ACLEM members are enrolled in health plans administered by AOCDS. The parties are uncertain about the issues referred to above, but expect that these issues will be addressed in future negotiations between the County and AOCDS.

ACLEM agrees to be bound by any agreements between the County and AOCDS reached as to these issues with the understanding that it may be necessary to modify any such agreements to reflect differences that exist between the bargaining units regarding levels of payments made, etc.

ACLEM agrees to ensure that the County receives any and all information necessary for the County to complete reporting under IRC [sections](#) 6055 and 6056 or other reporting as required by [the](#) Patient Protection and Affordable Care [Act](#) or any other state or federal requirements.

If any fees, assessments or penalties are charged to the County (as the employer) as a result of any failure to meet the health care reform requirements outlined above in conjunction with the health care benefits provided by the AOCDS medical plan Trust, ACLEM agrees to be bound by any agreement reached between the County and AOCDS regarding payment of said fees, assessments or penalties.

For the purposes of distributing any potential rebates received under the Minimum Loss Ratio rules, the County will use any such rebates to reduce the premium share for members covered by the benefit plan or option generating the rebate.

## ARTICLE XIV SAFETY

### Section 1. General Provisions

- A. The parties recognize that due to the nature of law enforcement, employees are required to work under conditions dangerous to the employee's health or safety.
- B. Nonetheless, the County shall make a reasonable effort to provide and maintain a safe place of employment. 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. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

### Section 2. 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.

ARTICLE XV PAYROLL DEDUCTION OF DUES AND INSURANCE  
PREMIUMS AND EMPLOYEE INFORMATION LISTING

Section 1. Payroll Deduction/Membership

A. Each employee in the Representation Unit hired by the County on or after June 1, 2018, must make an affirmative election in order to become a member of ACLEM. ACLEM must notify the County in writing of any new employee that joins.

B. ACLEM shall notify the County, in writing, as to the amount of dues, deductions and service fees required of members of ACLEM and also the amount of insurance premiums required of employees.

C. ACLEM must notify the County of any employee requesting to be removed from ACLEM membership. ACLEM will indemnify the County from any claim that fees were wrongfully collected as the results of its failure to notify the County of membership changes.

D. The County shall rely on the notification of new membership and election of dues deductions supplied by ACLEM. ACLEM will indemnify the County from any claim of wrongful deduction made by an employee based on the County's reliance on the notice provided.

E. Pursuant to the notification provided by ACLEM in Section 1.A. and B. above, the County will deduct the amount of dues, deductions, service fees, and insurance premiums as determined by ACLEM and any change shall be implemented by the County in the first pay period which commences thirty (30) days after written notice of the change is received by the Chief Human Resources Officer.

F. ~~Membership dues of ACLEM members in this representation unit and insurance premiums for such ACLEM 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, deductions, service fees, and insurance premiums so deducted to ACLEM.

G. The foregoing is to reflect the parties understanding of its rights, responsibilities, and duties under the following statutes:

Government Code Sections 1152, 1157.3, 1157.12 and SB 866.

The parties are not waiving their rights under these statutes, all of which are reserved.

H. Dues, deductions, and service fees include, but are not limited to, "membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization" per Government Code section 1152 and "dues in, or for any other service,

program, or committee provided or sponsored by, any employee organization” per Government Code section 1157.3.

~~B. ACLEM shall notify the County, in writing, as to the amount of dues uniformly required of all members of ACLEM and also the amount of insurance premiums required of employees who choose to participate in such programs.~~

## Section 2. Employee Information Listing

Upon request, to a maximum of two (2) times per fiscal year during the term of this Memorandum of Understanding, the County shall provide ACLEM with a complete and current listing of all employees in the Units represented by ACLEM. Such listings shall include employee name, job classification, department, timekeeping location, salary range and step. ACLEM agrees to pay one dollar and fifty cents (\$1.50) per page to offset the cost of providing such listings.

ARTICLE XVI EMPLOYEE RIGHTS

Section 1.

The County shall not take any action against an employee for exercising any rights, or receiving any benefits, provided for in this Memorandum of Understanding.

Section 2.

The rights provided for in the Public Safety Officer's Procedural Bill of Rights Act are not superseded, waived or in any other manner diminished by any term or condition of this Memorandum of Understanding.

Section 3.

Prior to answering questions posed by an investigating officer conducting an investigation that could reasonably lead to punitive action, or being required to submit a written report, an employee, upon request, will be given the opportunity to contact ACLEM to determine his/her representational rights.

ARTICLE XVII NONDISCRIMINATION

Section 1.

The County and ACLEM agree that the provisions of this Memorandum [of Understanding](#) shall be applied to employees without discrimination as required by state and federal law.

Section 2.

ACLEM shall not discriminate in membership or representation as required by state and federal law.

ARTICLE XVIII DEFINED COMPENSATION

An employee in a regular or limited-term position may, at his or her request, participate in the County's Section 457(b) Defined Compensation Plan.

ARTICLE XIX SEPARABILITY

| In the event that any provision of this Memorandum [of Understanding](#) is declared  
| invalid by any court of competent jurisdiction, such decision shall not invalidate the  
entire Memorandum [of Understanding](#), it being the express understanding of the  
parties hereto that all other provisions not declared invalid shall remain in full force  
and effect.

ARTICLE XX     FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

Section 1.    Dependent Care Reimbursement Account

The County will administer a Dependent Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's dependent care reimbursement account to pay for dependent care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

Section 2.    Health Care Reimbursement Account

The County will administer a Health Care Reimbursement Account that will allow eligible employees the opportunity to allocate a specific amount of biweekly pre-tax salary into the employee's health care reimbursement account to pay for health care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

## ARTICLE XXI RETIREMENT

### Section 1.

Eligible employees of this Unit are included in the Orange County Employees Retirement System as determined by their date of entry into eligible County service.

### Section 2.

Effective as of July 10, 2015, employees pay their full member contributions; the County no longer pays toward safety member employees' retirement contribution.

### Section 3.

Members' normal and cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors, and in accord with the provisions of this MOU.

### Section 4.

Effective June 28, 2002, the County implemented the 3% at 50 safety retirement formula for current active employees for all years of service as specified under the applicable Government Code Sections. Employees hired by the County prior to the implementation of the 3% at 55 safety retirement formula (see Section 5 below) will be in the 3% at 50 safety retirement formula.

### Section 5.

Effective March 16, 2010, all new employees to safety classifications represented by ACLEM, who were not in a Safety Retirement Classification with the County prior to their date of entry into ACLEM and who are not considered "new members" within the meaning of the Public Employees' Pension Reform Act of 2013 ("PEPRA"), will be in the "3% at 55" retirement formula, as provided for in Government Code Section 31664.2.

### Section 6.

For Employees Hired on or After January 1, 2013, who are Considered "New Members" Within the Meaning of PEPRA

The PEPRA shall in its entirety be given full force and effect as it may from time to time be mandated by statute, as described below, during and after the term of this 2015-2018 MOU, regardless of any PEPRA provision(s) not being specifically included herein. Any provision in this MOU which contradicts any mandated provision of the PEPRA shall be deemed null and void, with the contrary mandated PEPRA provision(s) being given full force and effect. Therefore, no mandated provision of the PEPRA shall be deemed to impair any provision of this MOU or any MOU predating the 2015-2018 MOU. PEPRA mandated provisions include, but are not limited to the provisions described below:

Unit members who are “new members” as defined by the PEPRA (Government Code section 7522.04(f)), shall be required to pay an OCERS member normal cost contribution in an amount determined pursuant to Government Code Sections 7522.30 and 31620.5 for the Defined Benefit Plan provided for by PEPRA, in which the new member is enrolled.

Those new members shall be enrolled in the 2.7% at 57 Benefit Plan, as provided in Government Code section 7522.25(e), with a final compensation measurement period of 36 consecutive months as set forth in Government Code Section 7522.32(a).

#### Section 7. Tax-Deferred Retirement

The County shall continue the tax-deferred retirement plan, known as 414H(2) for the duration of the Memorandum [of Understanding](#) (unless the Internal Revenue Service rules that 414H(2) is no longer applicable).

ARTICLE XXII COUNTY RIGHTS

The County retains the exclusive right to make all managerial and administrative decisions including, but not limited to, the nature and extent of services to be performed, the methods, means and personnel by which its operations are to be conducted, and such other decisions as may be necessary to organize and operate in the most efficient manner. Such rights shall also include the right to manage and direct the workforce, 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.

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APPENDIX A

| Classes included in the Law Enforcement Management Unit as of June 22~~1~~, 201~~8~~9.

6138ML	Lieutenant
6141ML	Captain
6531ML	Investigative Commander, DA
6534ML	Assistant Chief Investigator, DA

**DEAL POINTS**  
**FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE**  
**COUNTY OF ORANGE AND**  
**ASSOCIATION OF COUNTY LAW ENFORCEMENT MANAGERS (ACLEM)**  
**October 2, 2019**

Item	Details
<b>Contract Term</b>	Date of adoption by the Board of Supervisors through June 29, 2023
<b>Salary</b> Article II, Section 1	<ul style="list-style-type: none"> <li>▪ Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, increase salary by 3.5%</li> <li>▪ Effective 7/3/2020, increase salary schedule by 3.5%</li> <li>▪ Effective 7/2/2021, increase salary schedule by 3.5%</li> <li>▪ Effective 7/1/2022, increase salary schedule by 3.5%</li> </ul>
<b>Tuition Reimbursement</b>	Effective the first day of the first full pay period following Board of Supervisors' adoption of MOU, the annual tuition reimbursement maximum shall be \$10,000 per fiscal year.
<b>Vacation Cash Out – Add Constructive Receipt Language</b> Article V, Section 2, K2 and 2, L1	In cases of emergency, County will have discretion to deny request for vacation cash out to avoid adverse IRS taxes to employees upon receipt.
<b>Vacation Usage</b> Article V, Section 2 Article VI, Section 4B	Effective as soon as practicable following adoption of MOU, employees with AL balance and 10 years of continuous full-time service may use a maximum of 80 vacation hours each fiscal year for approved time off
<b>Bereavement Leave</b> Article IV, Section 2	Effective the first day of the first full pay period following Board of Supervisors adoption of MOU, eligible employees may use paid bereavement leave for the death of a family member, subject to the terms and conditions of Article IV, Section 2.
<b>Leave of Absence</b> Article IV	Reopener language to participate in workgroup to streamline language to ensure adherence to related laws
<b>Medical Trust</b> Article XIII Section 1A(2)	<p>The County's contribution to the medical trust for each full-time enrolled regular, limited-term and probationary law enforcement management employee on paid status will increase as follows:</p> <ul style="list-style-type: none"> <li>▪ Effective 7/2/2021: \$1,493 per month</li> <li>▪ Effective 7/1/2022: \$1,591 per month</li> </ul>

<b>Premium Pay Modification</b>	* <u>Night Shift Differential</u> : Change hours to 6 p.m. to 6 a.m. (limit to those who are assigned to night shift only as determined by Sheriff) * <u>Special Assignment Pay</u> : Expand to include special assignments for Lieutenants
<b>Holiday Pay</b> Article VII, Section 3C	Clarify language to prevent overpayment for work on holidays.
<b>Informal Grievance</b> Article X, Section 2, 7	Timelines to be tolled when an EEO allegation is made via a grievance
<b>Grievance</b> Article X, Section 8A	If arbitration is not calendared within 365 days of request, the grievance is considered withdrawn and finally resolved
<b>Optional Benefit Plan (OBP)</b> Article VIII, Section 4	No longer use OBP for payment of premiums for Accidental Death and Dismemberment (AD&D) beyond 2020 Plan Year or as soon thereafter as administratively feasible
<b>Probation Period</b> Article III, Section 1E	Extend probation period for employees while on Administrative Leave
<b>Payroll Deduction of Dues</b> Article XV, Section 1	Add <i>Janus</i> language to comply with the law

The signatures below indicate the parties have reached a tentative agreement on the foregoing subjects. This is an abbreviated version of the tentative agreement agreed to by the parties. This document does not and is not intended to set out the tentative agreements agreed upon in their entirety and does not supersede previously agreed-upon tentative agreements. Final agreement is dependent upon drafting of specific contract language and ratification by ACLEM and adoption by the County's Board of Supervisors.

FOR ASSOCIATION OF COUNTY LAW  
ENFORCEMENT MANAGERS

FOR THE COUNTY OF ORANGE

  
\_\_\_\_\_  
Captain Jeff Puckett                      10-2-19  
President, ACLEM                              Date

  
\_\_\_\_\_  
Laurie A. Shade                              10-02-19  
Chief Negotiator, County of Orange                      Date



County Executive Office

Memorandum

October 16, 2019

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer *for My Line*

Subject: Exception to Rule 21

RECEIVED  
2019 OCT 17 PM 3:52  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS  
*S31E*

The County Executive Office is requesting a Supplemental Agenda Staff Report (ASR) for the October 22, 2019, Board Hearing Meeting.

Agency: County Counsel  
Subject: Amendment of the County Campaign Reform Ordinance  
Districts: All Districts

Reason for supplemental: Approval of the amendment to the County Campaign Reform Ordinance will align its provisions on election cycles to changes in the dates of statewide primary elections. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: *Lisa A. Bartlett*  
Chairwoman Lisa A. Bartlett, Supervisor, Fifth District

cc: Board of Supervisors  
County Executive Office  
County Counsel



### SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 10/22/19  
 LEGAL ENTITY TAKING ACTION: Board of Supervisors  
 BOARD OF SUPERVISORS DISTRICT(S): All Districts  
 SUBMITTING AGENCY/DEPARTMENT: County Counsel  
 DEPARTMENT HEAD REVIEW: Leon Page  
*Department Head Signature*  
 DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300  
 James C. Harman (714) 834-5257

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 ORANGE COUNTY  
 BOARD OF SUPERVISORS

**SUBJECT:** Amendment of the County Campaign Reform Ordinance

CEO CONCUR

Maguire  
*CEO Signature*

COUNTY COUNSEL REVIEW

Approved Ordinance to Form  
*Action*  
J. Harman  
*County Counsel Signature*

CLERK OF THE BOARD  
 Discussion  
 4/5 Vote

**Budgeted:** N/A                      **Current Year Cost:** N/A                      **Annual Cost:** N/A  
**Staffing Impact:** N/A                      **# of Positions:**                      **Sole Source:** N/A  
**Current Fiscal Year Revenue:** N/A  
**Funding Source:** N/A                      **County Audit in last 3 years** No  
**Prior Board Action:** N/A

#### RECOMMENDED ACTION(S)

1. Read the title of the ordinance.
2. Order further reading of the ordinance be waived.
3. Consider the matter.
4. Direct that the ordinance be placed on the agenda of the next regularly scheduled Board of Supervisors meeting for adoption.
5. At the next regularly scheduled Board of Supervisors meeting, consider the matter and adopt the ordinance.

**SUMMARY:**

Approval of the amendment to the County Campaign Reform Ordinance will align its provisions on election cycles to changes in the dates of statewide primary elections.

**BACKGROUND INFORMATION:**

In 1992, Orange County voters approved the Orange County Campaign Reform Ordinance, commonly known as the TINCUP Ordinance. Among the ordinance's provisions is a limitation on campaign contributions to candidates for County office during an election cycle. The ordinance defines election cycles for primary, general, and special election cycles. Consistent with California's historical practice of holding its primary elections in June, the ordinance currently defines the end of the primary election cycle as June 30 and the beginning of the general election cycle as July 1.

In 2017, the State Legislature approved Senate Bill No. 568, which changed the statewide primary date to March in each even-numbered year. (Elec. Code, §§ 316, 1001, 1201.) Accordingly, primary elections for County offices will occur in March rather than in June. The proposed amendment to Section 1-6-7 of the Orange County Campaign Reform Ordinance aligns the ordinance with the changed primary date. The proposed amendment defines the end of the primary election cycle as 30 days after the date of the primary election and defines the beginning of the general election cycle as 31 days after the date of the primary election.

Under Section 1-6-21 of the Orange County Campaign Reform Ordinance, the Board of Supervisors can by a four-fifths (4/5) vote make substantive amendments to further the purposes of the ordinance. The proposed amendment furthers the purposes of the ordinance by aligning the definition of the primary election cycle to be consistent with current law regarding the date of the statewide primary in March, rather than in June. Moreover, should the Legislature change the date of the primary in the future, by defining the general election cycle as starting 31 days after the primary election, the proposed amendment to the Orange County Campaign Reform Ordinance is consistent with the voters' original design of having a brief period between the primary election date and the beginning of the general election contribution period.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCIES:**

N/A

**ATTACHMENT(S):**

Attachment A – Proposed Ordinance  
Attachment B – Proposed Ordinance (Redline Changes)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA,  
AMENDING SECTION 1-6-7 OF DIVISION 6 OF TITLE 1 OF THE  
CODIFIED ORDINANCES OF THE COUNTY OF ORANGE

The Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Article 1 of Division 6 of Title 1 of the Codified Ordinances of the County of Orange is hereby amended to read as follows:

Sec. 1-6-7. Election cycles.

(a) *Primary and general (runoff) elections*: For purposes of this division, contributions made at any time between the final date for contributions to the last primary or general (runoff) election (whichever occurred last) for that same elective County office and the 30 days after the primary election of the present election year shall be considered primary election contributions. If there is a general (runoff) election, then contributions made 31 days after the primary election through December 31 of the election year shall be considered general (runoff) election contributions.

(b) *Recalls*: For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election, or after the Registrar of Voters has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

(1) The recall proponents fail to return signed petitions to the Registrar of Voters within the time limits set forth in the California Elections Code.

(2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.

(3) Ten (10) days after a recall election has been held.

(c) *Special Elections*: For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a candidate for a special election shall be considered contributions during a special election cycle. A special election cycle shall end on June 30 or December 31 following the special election, whichever occurs first.

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA,  
AMENDING SECTION 1-6-7 OF DIVISION 6 OF TITLE 1 OF THE  
CODIFIED ORDINANCES OF THE COUNTY OF ORANGE

The Board of Supervisors of the County of Orange ordains as follows:

SECTION 1. Article 1 of Division 6 of Title 1 of the Codified Ordinances of the County of Orange is hereby amended to read as follows:

Sec. 1-6-7. Election cycles.

(a) *Primary and general (runoff) elections*: For purposes of this division, contributions made at any time between the final date for contributions to the last primary or general (runoff) election (whichever occurred last) for that same elective County office and ~~June 30~~ the 30 days after the primary election of the present election year shall be considered primary election contributions. If there is a general (runoff) election, then contributions made from ~~July 1~~ 31 days after the primary election through December 31 of the election year shall be considered general (runoff) election contributions.

(b) *Recalls*: For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election, or after the Registrar of Voters has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

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- (2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.
- (3) Ten (10) days after a recall election has been held.

(c) *Special Elections*: For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a candidate for a special election shall be considered contributions during a special election cycle. A special election cycle shall end on June 30 or December 31 following the special election, which ever occurs first.



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OFFICE OF THE COUNTY COUNSEL  
COUNTY OF ORANGE

333 West Santa Ana Boulevard, Suite 407  
Santa Ana, California 92701  
Direct No.: (714) 834-3303  
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE  
COUNTY COUNSEL

CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

Agenda Item No. SCS-2  
October 22, 2019

**M E M O R A N D U M**

October 11, 2019

TO: Robin Stieler, Clerk of the Board of Supervisors  
FROM: Leon J. Page, County Counsel  
SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, October 22, 2019, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL --  
EXISTING LITIGATION Pursuant to Government Code Section  
54956.9(d)(1).  
Name of Case: *Orange County Catholic Worker, et al. v. County  
of Orange, et al.*, United States District Court Case No. 8:18-cv-  
00155-DOC-(JDEx). *David Ramirez, et al. v. County of Orange*,  
United States District Court Case No. 8:18-cv-0220-DOC-(KESx).

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

LJP:jb

cc: Members of the Board of Supervisors  
Frank Kim, CEO



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ORANGE COUNTY  
BOARD OF SUPERVISORS

OFFICE OF THE COUNTY COUNSEL  
COUNTY OF ORANGE

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LEON J. PAGE  
COUNTY COUNSEL

Agenda Item No. SCS- 3  
October 22, 2019

**M E M O R A N D U M**

October 11, 2019

TO: Robin Stieler, Clerk of the Board of Supervisors  
FROM: Leon J. Page, County Counsel  
SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, October 22, 2019, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL --  
EXISTING LITIGATION Pursuant to Government Code Section  
54956.9(d)(1).  
Name of Case: *Huong Hue Tran, Thomas Minh Nguyen v. County  
of Orange, et al.*  
District Court Case No.: 8:18-cv-00969-AG-PJW

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

LJP:jb

cc: Members of the Board of Supervisors  
Frank Kim, CEO