

MEMORANDUM OF UNDERSTANDING

2011 - 2013

COUNTY OF ORANGE

AND

THE ORANGE COUNTY MANAGERS ASSOCIATION

FOR THE

ADMINISTRATIVE MANAGEMENT UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Orange County Managers Association as the Exclusively Recognized Employee Organization for the Administrative Management Unit for the period beginning January 4, 2011 through January 11, 2013.

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 Orange County Managers Association, hereinafter referred to as OCMA, is certified as the Recognized Employee Organization for the Administrative Management Unit. The County hereby recognizes OCMA as the exclusive representative of employees in this unit with respect to wages, hours, and other terms and conditions of employment.

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 Orange County Managers Association.

AGENCY/DEPARTMENT HEAD shall mean the person who is the principal officer or employee of an agency, department or district for the discharge of duties provided by law or particular delegated functions.

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

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

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

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

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

EXTRA HELP EMPLOYEE shall mean a person employed in an extra help position. An extra help employee serves at the pleasure of the County in an extra help position and may be removed from an extra help position at any time with or without notice or cause and without a hearing.

EXTRA HELP POSITION shall mean a position which is intended to be occupied on less than a year-round basis including, but not limited to, the following: to cover seasonal peak workloads; emergency extra workloads of limited duration; necessary vacation relief, paid Sick Leave and other situations involving a fluctuating staff.

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

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

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

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

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.

PERFORMANCE POOL shall mean the funding, as a percentage of bargaining unit salaries, approved by the Board of Supervisors for distribution of annual performance awards among eligible administrative managers in the bargaining unit.

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

PROBATIONARY EMPLOYEE shall mean a person 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 a non-management class to a management class or from one management class to another management class where the maximum rate of the new salary range is higher than the maximum rate of the salary range for the former class.

PROVISIONAL APPOINTMENT shall mean an appointment of a qualified person, who is not a regular, probationary, or limited-term employee of the County, to a regular or limited-term position on a temporary basis.

PROVISIONAL EMPLOYEE shall mean an employee who occupies a regular or limited-term position as the result of a provisional appointment.

REASSIGNMENT shall mean the movement of a regular, limited-term, or probationary employee from one position or assignment in a management class to another position or assignment in the same management classification.

RECRUITING RATE shall be the minimum advertised rate of the salary range allocated to a class unless otherwise authorized by the Department Head.

REDUCTION shall mean the movement of a regular, limited-term, or probationary employee from one management class to another class with a lower salary range.

REGULAR EMPLOYEE shall mean a person 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 that exceeds the maximum advertised rate for an Administrative Management class.

ARTICLE I WORK PERIOD AND PAY PRACTICES

Section 1. Work Period

- A. The official work period for County employees in this unit shall start on a Friday and end on the second Thursday thereafter. Administrative Management employees are not governed by the customary eighty (80) hour work period and may be expected to work more than eighty (80) hours in a given work period or allowed to work less than eighty (80) hours pursuant to the specific dictates of the assignment. The Agency/Department Head shall regulate said work periods based on the needs of the County with due regard to maintaining reasonable and equitable work periods for all employees.
- B. If any Administrative 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 Agency/Department Head may request the Board of Supervisors to authorize additional compensation for such an employee or group of employees whom the Agency/Department Head determines should receive additional compensation. The rate of such compensation shall be equal to one-eightieth (1/80) of the employee's regular biweekly pay rate for the hours in excess of eighty (80) hours in a pay period.
- 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, Administrative Management employees declared by the Human Resources Director 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. General Salary Provisions

- A. The administrative management salary structure is based on classification placement on a Broadband salary schedule. The structure includes an "advertised minimum" salary rate which increases to an "advertised maximum" salary rate (the control point), and upon approval and adoption of the eligibility criteria by the Board of Supervisors, additional compensation reserved only for outstanding performance.
- B. Manager's salaries may reach the top of the administrative management "advertised maximum" rate through annual increases provided to eligible management employees.
- C. The outstanding performance component of the Administrative Management salary ranges shall not be used for the purposes of recruiting, market adjustments or other non-performance related reasons. Under no circumstances shall the outstanding performance component of the Administrative Management salary ranges be

utilized for salary adjustments outside of a Board adopted and funded performance management program.

Section 3. Pay for New Employees

- A. The salary for new employees or newly promoted employees shall normally be at the minimum of the salary range in effect for the particular class or position in which the new employee is hired except as provided in Section 3.B. below.
- B. An Agency/Department Head may authorize that a particular position be filled at any rate within the salary range, up to the top of the advertised maximum rate of the range. In determining the salary offer, the Agency/Department Head shall consider the following:
 - 1. The market demands a greater salary offer;
 - 2. The candidate's previous education, training, experience and employment references enable the candidate to make an immediate greater contribution to the County;
 - 3. The offer does not negatively impact the department's budget or internal salary relationships within the Department or Countywide.

Section 4. Salary on Promotion

- A. Except as modified by Section 4.B. below, a regular, limited-term, or probationary employee who is promoted to a position in a management class, or who is appointed to a new position within the same management class through the recruitment process, shall generally begin at the minimum advertised rate on the salary range for that class. However, employees shall not receive a decrease in salary on promotion to a management class.
- B. An Agency/Department Head may authorize that a particular position being filled by a promotion, as described in Section 4.A. above to be paid at any salary level up to the top of the maximum advertised rate of the salary range for the position. The Department Head shall take into consideration, when making the salary offer, the same factors as outlined in Section 3.B. above.

Section 5. Salary on Reassignment

- A. When a regular, limited-term, or probationary employee is reassigned from one assignment to another comparable assignment within the same management class and salary range, the employee's salary shall not change. Such employee shall have the same probation status.
- B. Temporary or permanent movement from one assignment to another within the same management class and salary range shall include salary movement when the incumbent's new, full time temporary or permanent assignment changes as follows:

1. Incumbent assumes full supervisory responsibility of management or supervision of high-level non-management staff. As determined by the Agency/Department Head, the amount of salary movement is that which maintains at least a 5.5% to 7.5% differential between the highest paid subordinate and supervisor not to exceed the maximum advertised rate of the salary range. Performance rewards, including lump sum payments, may not be considered as a factor in determining the amount of increase to maintain this salary differential.
 2. Incumbent assumes substantial additional responsibility for an assignment that the Agency/Department Head can document is difficult to fill and/or critical to the Department's operations. The amount of salary movement shall be 5.5% and shall not exceed the maximum advertised rate for the class.
 3. Incumbent assumes substantial responsibility for an assignment that the Department Head determines that the incumbent is the recognized technical expert for a complex, clearly identifiable area. The amount of salary movement shall be 5.5% and shall not exceed the maximum advertised rate for the class.
- C. When an employee whose salary was adjusted as a result of temporary or permanent movement from one assignment to another assignment as outlined in Section 5.B. above and the assignment ends or the employee does not perform satisfactorily in the new assignment, the incumbent's salary shall return to that which he/she would have achieved in his/her prior assignment.
- D. Movement of an employee within the same management class should include development of new performance goals for the new assignment.

Section 6. Salary on Reduction

A. Disciplinary Reductions

When a regular, limited-term, or promotional probationary employee is reduced for disciplinary reasons, the employee's salary shall return to that which he/she would have achieved in his/her prior assignment.

B. Non-disciplinary Reductions

1. Except as provided in Section 6.C., below, when a regular or limited-term employee is reduced for physical disability or other non-disciplinary reasons, the employee shall receive the highest salary in the lower salary range that does not exceed the employee's rate of pay in the higher class or the advertised market rate of the salary range. When a promotional probationary employee is reduced for physical disability or other non-disciplinary reasons, the employee shall have the salary status 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.

2. 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:
 - a. If the salary of the employee is the same or less than the maximum advertised rate on the new salary range, the salary of the employee shall not change.
 - b. If the salary of the employee is greater than the maximum advertised rate on the new salary range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum advertised rate on the new salary 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 advertised rate on the new salary range, the salary or rate of the employee shall be reduced to the maximum advertised rate on the salary range for the new class. The duration of the Y-Rate shall begin on the effective date of the reclassification of the position.

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

- C. When an employee on a Y-Rate takes a voluntary reduction, his or her Y-Rate shall be reduced by the amount of the difference between the maximum advertised salary on the salary range of the class from which the employee is being reduced and the maximum advertised salary on the salary range 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 of the employee shall be set as in Article I, Section 5., above, Salary on Reassignment.
- B. If the position is reclassified to a class with a higher salary range, the salary of the employee shall be governed by Article I, Section 4., above, Salary on Promotion, or at the discretion of the Human Resources Director, the salary of the employee shall not be changed.
- C. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be governed by Article I, Section 6., above, Salary on Reduction.

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 Human Resources Director, be appointed at the rate and range the person occupied at the time of separation unless appointment is at an advanced rate pursuant to Article I, Section 3.B.
- B. Retirees
 - 1. 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 under the guidelines and compensation terms set forth in the Working Retiree Reemployment Policy as adopted by the Board of Supervisors.
 - 2. A former County employee on paid County retirement who retired under an early retirement incentive plan may be employed for not more than seven hundred twenty (720) hours in any one (1) fiscal year under the guidelines and compensation terms set forth in the Working Retiree Reemployment Policy as adopted by the Board of Supervisors.

Section 9. Change in Salary Allocation

If a class is reassigned to a higher salary range, the Board, or where appropriate, the Agency/Department Head shall determine the amount of increase, if any, each employee in the class shall receive, not to exceed a fifteen (15) percent increase.

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 an additional rate of compensation for such employees.

Section 11. Election Work

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 12. 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.
3. The rate of night shift differential shall be five (5) percent of one-eightieth (1/80) of the biweekly rate.

B. Bilingual Pay

1. Qualified employees who meet the following criteria shall receive thirty (30) cents per hour (approximately fifty-two [52] dollars per month) for all hours actually paid.
 - a. An employee must be assigned by Agency/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 Human Resources Director, or his/her designee.
2. Bilingual pay shall not apply to workers' compensation supplement pay.

ARTICLE II GENERAL PERSONNEL PROVISIONS

Section 1. Probation

A. New Probation

1. Full-Time Employee

A new or reemployed employee employed in a regular or limited-term position shall be placed on new probation 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 employed in a part-time regular or limited-term position shall be placed on new probation for two thousand eighty (2080) regular paid hours ending with the first day of the pay period following completion of said period.

B. Promotional Probation

1. A full or part-time employee who is promoted, except on a temporary promotion, shall be placed on promotional probation, except as provided in B.2., below. 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. A part-time employee shall serve a promotional probation period of two thousand eighty (2080) regular paid 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, reduced, or reassigned as a result of the employee's position being reclassified and the class from which the employee is promoted, reduced, or reassigned 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 discretion 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 from the service at any time without notice, cause, or 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 notice, cause, or right of appeal or hearing except as provided in C.3., below.
- 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 previous class for the purpose of training for a promotion to the 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.

- c. 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 unlawful discrimination by the County may submit a grievance at Step 2 of the grievance procedure within ten (10) days after receipt of notice of failure of new probation.

D. General Provisions

1. When an employee's record consists of a combination of full-time and part-time service in regular or regular limited-term positions, except as provided in Section 4.C., below, part-time service shall be applied proportionately by using total hours worked to appropriate full-time requirements. For purposes of this Section, 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 E.1. 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 Human Resources Director.

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. The Human Resources Director shall extend the new or promotional probationary periods of incumbents appointed as a result of a selection procedure which is appealed. Such probationary periods shall be extended no longer than sixty (60) calendar days from the date on which the County receives the Appeals Officer's findings and decision. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee has served a probationary period which is longer than the probationary period normally prescribed for new or promotional probation, such an employee may fail probation during the extended period only upon recommendation of the Appeals Officer and final determination of the Board of Supervisors.
3. Upon recommendation of the Agency/Department or request of the employee with concurrence of the Agency/Department, the probation period of an employee may be extended at the sole discretion of the Human Resources Director for a period not to exceed one hundred eighty (180) calendar days provided such action is approved by the Human Resources Director before the normal probation period is completed.

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

4. The Human Resources Director 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 Human Resources Director and the employee concerned or by an order of an arbitrator, court, or impartial hearing officer unless the particular item is otherwise required by law to be kept.

Section 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 Agency/Department Head shall become a limited-term regular employee.
- C. Limited-term employees hired under programs which involve special employment standards shall serve a new probation period upon transfer to permanent funded positions. Upon transfer to permanent positions such employees shall maintain their original hire date for purposes of vacation, sick leave accrual, annual leave accrual, and retirement. The requirement that such employees serve a new probation period may be waived by the County. Limited-term employees not hired under programs which involve special employment standards shall, upon transfer to permanent funded positions, maintain their original hire date for purposes of vacation, sick leave accrual, retirement, 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.
- 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 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. 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 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 salary status 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.

Section 5. Reemployment of Employees on Disability Retirement

- A. The County will advise employees retired for physical 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 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 Agency/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 Human Resources Director during working hours for the purpose of determining eligibility for movement to another class in the County service or transfer from one (1) Agency/Department to another.

ARTICLE III LEAVE PROVISIONS

Article III, LEAVE PROVISIONS, Section 1., 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 V.

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.
5. Extra help employees shall not earn sick leave.

B. Permitted Uses of Sick Leave

Sick leave may be applied to:

1. An absence necessitated by an employee's personal illness, injury, or disability due to pregnancy or childbirth.
2. 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.
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, domestic partner, child, stepchild, grandchild, grandparent, legal guardian or any other relationship as required by law.

5. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
 - a. The illness or injury of the employee was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
 - b. The employee must notify his or her supervisor within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave, whichever is sooner, to request that his or her illness on vacation be charged to sick leave.
 - c. The Agency/Department shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
 - d. Upon the employee's return to work, the employee must furnish the Agency/Department with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
6. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.
7. An absence due to an air pollution alert which prevents the employee from traveling to his or her work location.

C. Prohibited Uses of Sick Leave

Sick leave shall not be applied to:

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

D. General Provisions

1. 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. 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. Employees hired on or after July 15, 1977, shall not be eligible for any benefits provided by paragraph D.2., above.
 4. When a person is reemployed in a regular or limited-term position, the Human Resources Director may, upon the request of the Agency/Department, apply the period of previous County continuous service for the purpose of determining sick leave earning rates.

Section 2. Bereavement Leave

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

Section 3. Authorized Leave Without Pay

A. Agency/Departmental Leave

A regular, limited-term, or probationary employee may request an Agency/Departmental Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of the Agency/Department except in cases where Official Leave has been authorized pursuant to B.4., 5. and Section 10.A., below. The Agency/Department Head may require that all accumulated compensatory time be used prior to granting of Agency/Departmental Leave. The use of earned vacation or annual leave prior to the obtaining of Agency/Departmental Leave shall be at the option of the employee. If the Leave qualifies as Family Leave pursuant to applicable law, the Agency/Department Head may require that all sick leave, compensatory, vacation time, or not more than 192 hours of annual leave be used prior to granting an Agency/Departmental Leave except that the use of sick leave shall be subject to the provisions of Article III, Section 1.C. and D., above. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.

B. Official Leave

1. Upon request, a regular, limited-term, or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year except as provided in 2. and 3., below. Such Leave may be authorized only after an employee's completion of an Agency/Departmental Leave and after all compensatory, vacation accruals, and not more than 192 hours of annual leave have been applied toward payment of the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
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 5. below, shall not apply.
3. Upon request, an employee who has requested and identified a valid need for Family Leave pursuant to Section 11. of this article and applicable law shall be granted Official Leave to the extent required by such law. Such Leave shall be

authorized only after an employee's completion of an Agency/Departmental Leave and after all accumulated compensatory time, vacation accruals and not more than 192 hours of annual leave have been applied toward payment of the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions. In addition, where appropriate under the provisions of Article III, Section 1.B., above, the employee may be required to apply all sick leave accruals toward payment of the absence before an Official Leave will be authorized.

4. An employee shall give notice two (2) weeks prior to the date he or she wants to return to work except that an employee returning from Family Leave shall give the lesser of two (2) weeks notice or the maximum allowable under applicable law. If an employee does not give the 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 the employee gives such notice; however, the Agency/Department may waive the notice or reduce the notice period at its discretion.
5. The Agency/Department shall indicate on the request its decision as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Human Resources Director. He or she shall deliver a copy to the Auditor-Controller and the employee. If the Agency/Department modifies or does not approve a request for Official Leave, the employee may, within fifteen (15) calendar days of said action, file a request for review with the Human Resources Director. The Human Resources Director shall review the request and make a decision within seven (7) calendar days. The decision of the Human Resources Director on such appeals shall be final.
6. An Official Leave shall not be credited toward continuous service.

C. General Provisions

1. A request for a Leave of Absence shall be made upon forms prescribed by the Human Resources Director and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence, and the probable date of return.
2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the employee's Agency/Department only where the employee is unable to initiate such action, except in cases where the provisions of Section 10. A., below apply.
3. An employee who has been absent without pay due to a Leave granted pursuant to Sections 3, 4, 9, and/or 11 of this Article shall be considered to have automatically resigned his or her employment with the County under the provisions of Section 8., below, unless he or she returns to work at the end of the Leave or receives approval for an extension of his or her Leave.

Section 4. Official Leave for Nonoccupational Disability

- A. A regular, limited-term, or probationary employee shall be granted upon request an Official Leave of Absence Without Pay for up to six (6) months for a nonoccupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
1. A medical statement covering prognosis, and 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 not more than 192 hours of annual leave have been applied toward the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
 3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. An employee shall not be entitled to more than one (1) such Leave pursuant to this Section per twelve (12) month period.

Section 5. Absences Caused by Illness, Injury, or Pregnancy

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

Section 6. Jury Duty Leave

A regular, limited-term, or probationary employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the County Treasurer. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. 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. 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 Agency/Department Head prior to the expiration of the time limit specified in A., above.
- C. When an employee has been absent without authorization and the County plans to invoke the provisions of 8.A., above, at least ten (10) calendar days prior to accepting and entering an automatic resignation, the County shall send written notice to the employee's last known address by certified mail with return receipt requested, and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:
 - 1. a statement of the County's intention to accept and enter the employee's automatic resignation and its effective date;
 - 2. a statement of the reasons for considering the employee to have automatically resigned;
 - 3. a statement of the employee's right to respond, either orally or in writing, prior to the 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 employee has waived any right to appeal the automatic resignation.
- D. An automatic resignation shall not be accepted and entered if the employee 1) responds to the notice before the effective date, 2) provides an explanation satisfactory to the Agency/Department as to the cause of the unauthorized absence and the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons, and 3) is found by the Agency/Department to be ready, able, and willing to resume the full duties of his or her position.

- E. An employee who is permitted to continue his or her employment pursuant to C. and/or D., above, shall not be paid for the period of his or her unauthorized absence and shall be treated as if on a Leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the Agency/Department determines it is appropriate to use sick leave, compensatory time, vacation, or other paid leave to cover the absence.
- F. Notwithstanding any other provision of this Section, the County may rescind an automatic resignation.
- G. Automatic resignations shall not be considered a discharge under the provisions of Article IX, DISCIPLINARY ACTION.

Section 9. 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 and compensatory time and not more than 192 hours of annual leave have been applied toward the absence. Use of annual leave beyond 192 hours shall be at the discretion of the employee, subject to the annual leave provisions.
- 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 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, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

Section 10. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XII, a regular, limited-term, or probationary employee shall be placed on Workers' Compensation Leave. If such determination cannot readily be made, and all sick leave or 192 hours of annual leave 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.

An employee whose Workers' Compensation Leave ends pursuant to this provision and who does not return to work or obtain Agency/Department approval for an authorized leave of absence shall be considered to be absent without authorization.

- 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 11. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law for the following situations:
 - a. An employee's serious health condition (see Section 4, above).
 - b. The birth of a child or placement of a child for adoption or foster care (also see Section 9, above).

- c. Employee's presence is needed to attend to a serious health condition of the employee's child, spouse, domestic partner, parent, or a child of an employee standing in "loco parentis" who is either under eighteen (18) years old or adult dependent child incapable of self-care because of mental or physical disability.
2. Employees must request and identify their need for Family Leave. Requests for Family Leave may also fall under the provisions of Sections 3, 4, and 9, above.
3. The County shall determine if a request for Family Leave is valid within the parameters of applicable law.
4. When a request for Family Leave is approved, the Agency/Department shall determine if annual leave, sick leave, compensatory, and/or vacation time is to be applied and shall determine the order in which such time is applied. The use of sick leave shall be restricted to those circumstances which qualify under the provisions of Article III, Section 1.B.

B. Notification Requirements

1. If the Family Leave is foreseeable, the employee must provide the Agency/Department with thirty (30) calendar days notice of his or her intent to take Family Leave.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent, spouse or 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. The County may require certification from the health care provider which states: (1) the date on which the need for the leave commenced; (2) the probable duration of the need for the leave; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the serious health condition (if leave is for own serious health condition) or that care is needed (if leave is for child, spouse, domestic partner or parent).

2. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

Section 12. Leave for OCMA Business

The County shall allow a regular, limited-term, or probationary employee up to five (5) working days absence without pay during each fiscal year for the term of this Agreement to perform official OCMA business, provided that:

- A. OCMA shall make a request to the employee's Agency/Department Head at least ten (10) days in advance.
- B. OCMA 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 work.

Section 13. OCMA Presidential Leave

- A. The County agrees to grant, if requested by OCMA, Presidential Leave with pay and without loss of any benefits provided by this Memorandum of Understanding, except as provided below, to the President of OCMA during 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. OCMA promptly reimburses the County for all OCMA President salary expenses incurred during the Presidential Leave.
 4. OCMA 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 Agency/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. OCMA 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. 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.

ARTICLE IV VACATION

Article IV, 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 V.

Section 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. 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. The employee shall earn a second eighty (80) hours of vacation when he or she has accumulated four thousand one hundred sixty (4160) regularly scheduled paid hours and a third eighty (80) hours of vacation when he or she has accumulated six thousand two hundred forty (6240) regularly scheduled paid hours. The employee shall in addition earn .0193 hours of vacation for each hour of pay during the 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.
- 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 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 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.

Section 2. General Provisions

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

employee who is separating from County service by way of paid County retirement may elect either to take time off for his or her vacation or to be paid for his or her vacation in a lump sum payment.

- K. During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

ARTICLE V ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited-term employees hired on or after July 15, 1977. 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 seven (7) hours and twenty-five (25) minutes of annual leave during each eighty (80) hour pay period (approximately one hundred ninety-two [192] 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 nine (9) hours and fifty-two (52) 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.
- 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 eleven (11) hours and twenty-four (24) minutes of annual leave during each eighty (80) hour pay period (approximately two hundred ninety-six [296] 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. When a person is re-employed in a regular or limited-term position, the Human Resources Director may, upon the request of the Agency/Department Head, apply the period of previous County continuous service for the purpose of determining annual leave earning rates.

Section 2. Use of Annual Leave for Illness or Injury

A. Annual Leave may be applied to:

1. An absence necessitated by employee's personal illness, injury, or disability due to pregnancy or childbirth.
2. 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, domestic partner, child, stepchild, grandchild, grandparent, or legal guardian.
5. Absence from duty because of personal business.
6. 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. 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 years 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 (10) years of County service, with the part-time service being applied proportionately to the appropriate full-time interval.

- D. Additional annual leave earned during the period of annual leave may be taken consecutively.
- E. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.
- F. 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.
- G. 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. No scheduled annual leave will be cancelled by the department except in cases of emergency.
- I. 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 a Fire Suppression Volunteer, Deputy Sheriff-Emergency Service, Election Board Officer, or Election Night Help.
- J. The parties will jointly monitor and review 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 may become necessary. If unanticipated consequences arise, the parties shall meet and attempt to mitigate those consequences. 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 4. Payoff of Unused Annual Leave

- 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 forty-five (45) hours each or one (1) increment of up to ninety (90) hours.
- B. An employee separating from County service shall be paid in a lump sum payment for the unused annual leave balance as provided below.

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	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. 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.

D. 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. 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, to a maximum of 1600 hours (less maximum number of hours paid at 100%) shall be paid in accordance with payoff provisions in B. and C. of this Article.

1. The above Annual Leave Payoff provisions are not intended to provide for the retiring employee to be permitted to return to active status after the employee has elected to take time off prior to retirement, in order to receive additional annual leave pay off at 100 percent. If an employee returns to work under these circumstances, the annual leave hours used within two (2) pay periods prior to return will be deducted from the annual leave that will be paid to the employee in a lump sum payment upon retirement.

2. The following circumstances do not fall within the intent described above:

- a. Intermittent use of Annual Leave prior to retirement
- b. Use of Annual Leave for approved leaves of Absence such as Official Leave, Non-occupational Disability, Family leave or Workers Compensation leave prior to retirement

- E. Notwithstanding any other provision of this Memorandum of Understanding, if a Probation Safety Manager is killed in the line of duty (in accordance with Penal Code 830.5), 100 percent of the employee's annual leave balance will be paid to the employee's estate.

ARTICLE VI HOLIDAYS

Section 1. Holidays Observed

A. Except as modified in Section 1.B., below, County employees shall observe the following holidays:

2011: Martin Luther King, Jr.'s Birthday, January 17
 Lincoln's Birthday, February 12
 President's Day, February 21
 Memorial Day, May 30
 Independence Day, July 4
 Labor Day, September 5
 Columbus Day, October 10
 Veteran's Day, November 11
 Thanksgiving Day, November 24
 Day after Thanksgiving, November 25
 Christmas Day, December 25

2012: New Year's Day, January 1
 Martin Luther King, Jr.'s Birthday, January 16
 Lincoln's Birthday, February 13
 President's Day, February 20
 Memorial Day, May 28
 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

2013: New Year's Day, January 1

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 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.
- 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 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 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. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.

F. Full-time employees who are on a pay status during the pay period which includes March 1 each fiscal year during the term of this 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. 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 VII REIMBURSEMENT PROGRAMS

Section 1. Mileage Reimbursement

- A. Subject to the current Vehicle Rules and Regulations established by the Board, an employee who is authorized to use a private automobile in the performance of duties shall be paid the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car for each mile driven during each monthly period.
- 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.

Section 3. Optional Benefit Plan

- A. Each eligible employee shall be entitled to select benefits from those listed below at a cost to the County, not to exceed three thousand five-hundred (\$3,500) dollars, effective the beginning of each calendar year.
- B. The purpose of the plan is to provide options to individual employees to best meet the needs of themselves and dependents while enhancing the employee's expertise and skills on the job.

The options available shall include the following types of benefits such as:

- 1. cash (taxable);
- 2. professional conferences which are job related (employee only) including fees and other expenses while attending;
- 3. professional memberships, licenses, and certificates which are job related (employee only);
- 4. professional journals and periodicals (employee only) which are job related;

5. Health/Accident;
 - a. health care and/or dental (employee and/or dependents) as permitted in the Internal Revenue Code. Examples of items covered under this provision include deductibles, eye care, lenses and frames, orthodontics;
 - b. employee's share of Accidental Death and Dismemberment coverage for employee and dependents available through the County.
 6. a Deferred Compensation Plan through the County of Orange.
- C. The Human Resources Director shall administer the plan in accordance with the stated purpose. Each employee to be eligible must file an intent to participate statement and follow instructions prepared by the Human Resources Director. If an employee does not enroll prior to the commencement of the plan, the employee shall receive a taxable cash lump sum the first pay period after becoming eligible for the plan. Employee designations are irrevocable unless they have a change in family status. For expenses to be eligible, they must be incurred during a plan period in which an employee is eligible. Claims may be filed at anytime during the plan period and all claims must be filed no later than March 31st the next year. The Human Resources Director shall notify the Auditor-Controller in writing of payments to be made to employees. Such notification shall constitute authorization for the Auditor-Controller to make payments.
- D. Eligibility - a regular, limited-term or probationary employee is eligible to receive the optional benefit provided he or she is continuously employed in a regular full-time capacity. Part-time employees working twenty (20) hours or more in a workweek 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 will be eligible for the optional benefit on a pro rata basis the first day of the month following the twenty-eighth day.
- E. Any portion of the Optional Benefit allocated towards the health reimbursement category as outlined in Section 3.B.5.a. will be subtracted from the amount the employee is eligible for under the County's Health Care Reimbursement Account (if the employee participates).
- F. Any portion of the optional benefit not incurred within the plan period shall remain County funds.
- G. Claims shall be made on forms provided by the County on which claimant declares the category of service received as defined in the plan, the dates the expenses were incurred by the claimant or eligible dependents, by whom service was provided, and the amount being claimed. The Auditor-Controller shall pay claims submitted with a declaration under penalty of perjury signed by the claimant and approved by the Human Resources Director. The Human Resources Director will approve for payment only those claims which are accompanied by documentation that an eligible expense has been incurred during the plan period.

ARTICLE VIII FLEXIBLE SPENDING ACCOUNTS

The County will administer the following Flexible Spending Accounts:

Section 1. 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. The annual amount an employee is eligible to allocate is five thousand (5,000) dollars. The HCRA will be effective January 1, 2002 or as soon as practicable thereafter.

Section 2. 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.

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 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 the recognized employee organization 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 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 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 Human Resources Director 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 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 OCMA in an investigatory meeting.

ARTICLE X GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

Section 1. Scope of Grievances

- A. A grievance may be filed if a County 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 including, 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 rating or the equivalent.

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 the recognized employee organization any step of the procedure may be waived.
- D. The Human Resources Director may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, Agency/Department-wide or Countywide basis in an emergency situation. The recognized employee organization 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.

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 OCMA in the formal grievance/appeal procedure. If an employee chooses not to be represented by OCMA, OCMA may have a representative present during the grievance/appeal procedure and/or arbitration and, if necessary, shall have the right to present OCMA'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 OCMA.

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 employee 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 employee 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 employee 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 employee 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 employee grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the employee representative shall be permitted to do so provided that:
 - a. the employee 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 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 Agency/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: Human Resources Director

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

- a) an interpretation or an application of this Memorandum of Understanding;

- b) a written reprimand; or
- c) a probationary release alleging discrimination,

it may be appealed in writing to the Human Resources Director within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of 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 Human Resources Director or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant. The decision of the Human Resources Director in B., 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 Human Resources Director 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.

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 Human Resources Director 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 Human Resources Director 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 OCMA 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 Human Resources Director, an arbitrator shall hear 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 OCMA 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 Human Resources Director, an arbitrator shall hear 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

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 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 Agency/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 the employee's length of continuous service, knowledge and skills related to organizational need and the employee's performance with length of continuous service being of primary 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 Agency/Department rehire list pursuant to Article XI, Section 5.

Section 5. Rehire Lists

- A. The names of persons laid off shall be placed on an Agency/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 Agency/Departmental Rehire List for that class will be considered prior to eligibles 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 Agency/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 Agency/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 Agency/Department to another Agency/Department occurs, employees previously laid off from such function(s) who are on an Agency/Departmental Rehire List for the Agency/Department losing such function(s), shall be removed from such list and shall be placed on a Rehire List by class for the Agency/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 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 which requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code Section 4600 et. seq. or for administrative management employees in the Probation Department who hold safety status, Section 4850, whichever is applicable.

Section 2. Workers' Compensation Supplement Pay

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

leave, compensatory time, and vacation, in that order, if the employee is compelled to be absent from duty as set forth in paragraph 2.B., above.

- G. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of annual leave, sick leave, and/or vacation earning rates.

Section 3. Exposure to Contagious Diseases

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

Section 4. Exhaustion of 4850 Benefits

When an administrative management employee in the Probation Department who holds safety status 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 2. above, Workers' Compensation Supplement Pay, shall apply.

ARTICLE XIII SAFETY

Section 1. General Provisions

- 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. 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 XIV INSURANCE

Section 1. Health Plans

- A. Except as modified by Section 1.B., C. and D., below, the County will offer health plans to all regular, limited-term, and probationary employees and their dependents. The County will share the costs of such health plans as provided in the Health Plan Rate Schedule adopted by, and as may be modified by, the Board of Supervisors.
- B. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
- C. The County will pay the full cost of employee and dependent coverage for two full-time employees married to each other. Two married full-time employees enrolled in the same health plan must be enrolled as employee married to employee.
- D. For employees who are on approved Family Leave pursuant to Article III, Section 11. and applicable law, the County shall continue to pay health insurance premiums as provided in A., B., and C., above, to the extent required by applicable law.
- E. New eligible employees will be enrolled in the health plan of their selection effective the first day of the month following the first thirty (30) days of employment. Eligible full-time employees failing to elect a plan will be enrolled in the Premier Wellwise Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Premier Sharewell Health Plan, employee only.
- F. Terminated employees will continue to be eligible for health plan benefits until the last day of the calendar month in which they terminate employment.
- G. The County shall provide for an open enrollment period once each calendar year for employees, employees' dependents, and retirees to change their enrollment in a County health plan.
- H. Effective January 1, 2008, active employees will be separately pooled from retirees for purposes of setting premiums for participation in County offered health plans.

Section 2. Other Insurance Coverage and Physical Examination

- A. The County will provide to all full-time regular, limited-term, and probationary employees the following:
 - 1. Short-term Disability Insurance Plan at no cost to the employee to provide, after sick leave or 192 hours of annual leave is exhausted, sixty (60) percent of salary for up to one (1) year for certified nonoccupational injury or illness. 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.

2. Long-term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
 3. Life Insurance and Accidental Death and Dismemberment Insurance:
 - a. Life insurance and accidental death and dismemberment insurance will be provided in the amount of \$100,000 for all administrative management employees regardless of age. Benefits are subject to Imputed Income requirements as required by law.
 - b. Employees will have the option to purchase additional life and accidental death and dismemberment coverage including dependent coverage.
 4. Voluntary annual physical examinations by a County-designated physician at no cost to the employee.
- B. 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 3. Premium Only Plan

The County will administer a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted in the Internal Revenue Code. Under the plan, an employee's gross taxable salary will be reduced by the amount of his or her share of the premium costs of County-provided health insurance coverage.

Section 4. Retiree Medical Benefit

A. Retiree Medical Insurance Grant

1. Effective August 1, 1993, as amended herein, the County implemented a Retiree Medical Insurance Plan (Plan) for employees who have retired from County service and who meet the eligibility requirements set forth in this Section 4.
2. Upon paid County retirement, an eligible retiree shall receive a Plan Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered health insurance plan and/or Medicare premiums as provided below.

- a. For eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year, the amount of such Grant shall be adjusted by the average percentage increase in County health plan premiums no later than the effective dates of such increases, not to exceed five (5) percent per year. Effective on January 1, 2008, the maximum Grant adjustment will be limited to three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.
- b. For eligible employees retiring after September 26, 2006, the Grant will be adjusted as follows:
 - 1) The Grant will be reduced by seven and one-half percent (7½%) per year for each year of age the employee is less than age 60, based upon the employee's age on his or her retirement date. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.
 - 2) The Grant will be increased by seven and one-half percent (7½%) per year for each year of age the employee is greater than age 60, based upon the employee's retirement date. For the purposes of the Grant increase, no years of age after age 70 will be considered. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.
 - 3) Sections 4.A.2.b.1 and 4.A.2.b.2 shall not apply to Safety Classifications.
 - 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. For retirees and surviving dependents who have attained age 64 on or prior to September 26, 2006, the 50% reduction in the Grant will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B; however, the reduction will be no sooner than September 26, 2007. For eligible employees retiring after September 26, 2006, the 50% reduction will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B. This provision does not apply to a retiree or surviving dependent eligible for the Grant who has attained age 65 on or prior to September 26, 2006 and is eligible for both Medicare Part A (without paying a premium) and Medicare Part B.

- c. All current employees who become eligible for a Grant shall be provided a one (1) time opportunity of at least thirty (30) days to enroll in a County offered health plan. Should a retiree fail to enroll during the aforementioned thirty (30) day 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 and enrollment in a County offered 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. 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 Grant

1. Retiree must be actively retired from the County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System.
2. Retiree must have retired with at least ten (10) years of County service except as provided in C.2.a., b., c., and d. below:
 - a. A retiree who receives a service-connected disability retirement from the County shall be eligible for a Grant equal to either ten (10) years of service or actual years of County service, whichever is greater.
 - b. A retiree with a minimum of five (5) years of County service who receives a non-service connected disability retirement shall be eligible for a Grant based on actual years of County service. An employee with less than five (5) years of County service who receives a non-service connected disability retirement shall not be eligible for a Grant.

- c. A separated employee who has less than ten (10) years of County service or is under normal retirement age and requested a service or non-service connected disability retirement shall not be eligible to receive either the Grant or the Lump Sum benefit until a determination of disability status is made by the Board of Retirement.
 - d. A separated employee who receives a Lump Sum benefit pursuant to this Section 4. shall be ineligible for the Grant if, at a later date, the Board of Retirement grants a disability retirement.
3. All eligible retirees and enrolled dependents that 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 that 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 shall not become eligible for participation in the Grant.
5. For purposes of this Section, a full year of 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.

D. Survivor Benefits

- 1. A surviving spouse 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 Retiree Medical Insurance Grant shall receive the survivor benefit described in D.1., above, or his or her own Retiree Medical Insurance Grant, whichever is greater. Such retiree shall not be eligible for both Retiree Medical Insurance Grants.

ARTICLE XV DEFINED CONTRIBUTION

Section 1. Section 457(b) Defined Contribution Plan

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

Section 2. Section 401(a) Defined Contribution Plan

Effective the first pay period after Board adoption of the 2011 – 2013 MOU, the County contribution to the 401(a) Defined Contribution Plan, as referred to in Appendix B ("Wages", Item 3.) will be eliminated for the remaining managers in the 401(a) Plan under the grandfathering agreement. Managers must leave their assets in the 401(a) Plan until either retirement, separation from the County of Orange, death or total and permanent disability.

ARTICLE XVI RETIREMENT

Section 1. For Employees Hired On or Before September 20, 1979

- A. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
- B. Members' normal contribution rates shall continue to be established as provided by Section 31621.5 of the Government Code for general members and 31639.5 for safety members.
- C. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- D. The County will pay toward the employee's total retirement contribution, as determined by Section 1. B. and C., above, the statutory maximum allowable under the provisions of Government Code Section 31581.1 up to one-half (1/2) for general and safety members. Effective the first pay period after Board adoption of the 2011 – 2013 MOU, the County will no longer pay the contribution for general members, and the employees will begin to pay the contribution. The County will continue to pay the contribution for safety members only. Effective June 29, 2012, the County will no longer pay this contribution for safety members and the employees will begin to pay the contribution.

Section 2. For Employees Hired On or After September 21, 1979

- A. The retirement allowance of general and safety members will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
- B. Members' normal contribution rates shall be as provided by Government Code Section 31621 for general members and 31639.25 for safety members.
- C. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- D. The County will pay toward an employee's total retirement contribution as determined by Section 2. B. and C., above, the statutory maximum allowable by Government Code Section 31581.1 up to one-half (1/2) for general and safety members. Effective the first pay period after Board adoption of the 2011 – 2013 MOU, the County will no longer pay the contribution for general members, and the employees will begin to pay the contribution. The County will continue to pay the contribution for safety members only. Effective June 29, 2012, the County will no longer pay this contribution for safety members and the employees will begin to pay the contribution.

Section 3. Employee Contribution

- A. Members' normal cost-of-living contributions will be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
- B. Effective June 29, 2001, the County will pay any remaining employee retirement contributions normally required of general and safety members, pursuant to government code Section 31581.2.
- C. Effective the first pay period after Board adoption of the 2011 – 2013 MOU, the County will no longer pay the retirement contributions, for general and safety members, described in Section 3. B. above and the employees will begin to pay the contributions.
- D. Effective June 28, 2002, the retirement benefit formula for Probation Department safety members specified in Section 830.5 of the Penal Code is provided for in Government Code Section 31664. Effective June 23, 2005, the retirement benefit formula for Probation Department safety members specified in Section 830.5 of the Penal Code is provided for in Government Code Section 31664.1.

Section 4. Retirement Benefits for General Members who Retire on or after July 1, 2005

Except as set forth in Section 6 below, employees in this bargaining unit who are general members of the retirement system, who retire on or after July 1, 2005, will be provided a one-fiftieth (1/50) retirement benefit calculated pursuant to Section 31676.19 of the Government Code. This retirement benefit formula is commonly known as the “2.7% at 55” benefit formula.

Section 5. General Member Retirement Contributions on and after June 24, 2005

- A. Effective with the pay period commencing on June 24, 2005, normal employee contribution rates to the retirement system, for general members for pay periods during which the general member is covered by the “2.7% at 55” benefit formula, will be calculated pursuant to Section 31621.8 of the Government Code.
- B. The County will continue to adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
- C. Effective with the pay period that commences on June 24, 2005, general members in this bargaining unit will be required to make an additional contribution to the retirement system, in accordance with and for the purposes stated in Section 31678.3(d) of the Government Code or Section 31678.3(i) of the Government Code, as applicable. This additional contribution shall continue beyond the expiration date of this MOU for the purpose of amortizing, over a 30 year period, the cost of the retirement benefit improvement resulting from the adoption of the “2.7% at 55”

benefit formula in Section 31676.19 of the Government Code. This contribution will be in addition to the normal employee contribution calculated under Section 31621.8 of the Government Code (or Section 31621 of the Government Code, if applicable), and 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.

- D. Implementation of the foregoing changes will result in an increase in employee and employer retirement contributions for general members in this bargaining unit. It is the intention of the parties that the amount of this increase will be borne by the general member employees, and not by the County.
- E. It is the intent of the parties that the implementation of the 2.7% at 55 retirement benefit formula shall be without additional cost to the County. After implementation of this benefit, the County and OCMA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.
- F. Pursuant to Section 5.E. above, adjustments to employee contributions will be considered during future negotiations.
- G. The relative-ratio based methodology will continue to be used during the term of the 2011 – 2013 contract to determine the additional employee contribution toward the “2.7 at 55” retirement benefit formula.

Section 6. Pension Formula Election

- A. Pursuant to Board Resolution 10-072, Authorization of Pension Formula Election, providing for new employees to elect the pension calculation stated in Section 31676.19 of the Government Code (the “2.7% at 55” benefit formula) or the pension calculation stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula) for future County service, all new general member employees hired on or after August 27, 2010 (plan commencement date) will be required to make the pension benefit formula election provided for in the Board Resolution.
- B. New general member employees hired or appointed on or after the plan commencement date shall have forty-five (45) calendar days from the date of hire or appointment to elect either the pension calculation stated in Section 31676.19 of the Government Code (the “2.7% at 55” benefit formula) or the pension calculation stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula). If an employee elects the pension calculation described in Section 31676.19, the employee’s retirement contribution shall be the contribution described in Section 5 . above.
- C. In the event a newly hired or appointed employee after the plan commencement date fails to make an election during the period set forth in Section 6. B., above, the employee will be deemed to have elected the pension calculation stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula). If

an employee hired or appointed on or after the plan commencement date fails to make an election and their employment or appointment with the County is terminated within 45 days, the employee will be deemed to have elected the pension calculation stated in Section 31676.01 of the Government Code (“1.62% at 65” benefit formula).

- D. New employees who elect, or are deemed to have elected, the pension calculation stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula) shall be eligible to participate in the Defined Contribution Retirement Plan (the “DC Plan”) described in Section 7 below.
- E. After the new employee makes an election or is deemed to have made an election as described in Section 6. B. and C. above, the employee will make retroactive contributions through payroll deductions, equal to the contributions that would have been made from the employee’s hire or appointment date, for the appropriate election as described in Section 5 above, Section 6. B., Section 5. above and Section 6. F., below. County matching contributions to the DC plan, for employees whose benefit is described in Government Code Section 31676.01, and who elect to participate in the DC Plan, are not retroactive to the employee’s date of hire and will be calculated from the date that the employee elects to participate in the DC Plan, and after the employee has made an election or deemed to have made an election of the benefit formula described in Government Code Section 31676.01.
- F. Effective with the pay period following the date an employee elects, or is deemed to have elected, the pension calculation stated in Section 31676.01 of the Government Code (the “1.62% at 65” benefit formula), the normal employee contribution rate to the retirement system for the employee will be calculated pursuant to Section 31621 of the Government Code. Employees who have elected, or who have been deemed to have elected the benefit described in Government Code Section 31676.01, will make the contributions described in Section 5. B. and C. above.
- G. Irrespective of whether employees whose benefit is described in 31676.01 of the Government Code (the “1.62% at 65” formula), are required or permitted to make the contributions described in Section 5. above., it is still the intent of the parties that the implementation of the “2.7% at 55” retirement benefit formula shall be without additional cost to the County. Employee participants who are covered by the “2.7% at 55” benefit described in Government Code Section 31676.19 continue to be responsible for the entire cost of the retirement benefit improvement resulting from the adoption of the “2.7% at 55” benefit formula in Section 31676.19 of the Government Code.

Section 7. Defined Contribution Retirement Plan

- A. Beginning on the plan commencement date, as defined in Section 6. A. above, the County will administer the DC Plan available to those new employees who have elected or who have been deemed to have elected the additional retirement contribution stated in Section 31676.01 of the Government Code (the “1.62% at

65” benefit formula). These employees will be permitted to make voluntary contributions to the County 1.62 Defined Contribution Plan. The County will maintain the DC Plan and a County defined contribution plan and it shall require the County to make matching contributions as described in Section 7. B. below for employees whose benefit is described in Government Code Section 31676.01 and who make contributions to the DC Plan.

- B. During the first one-year period following the plan commencement date, the County will contribute a biweekly amount to the DC Plan for an eligible employee equal to the biweekly amount that the employee contributes to a County defined contribution plan, not to exceed two (2) percent of the employee’s base salary (the “match”). In accordance with Board action on March 22, 2011, this one-year period is extended until a decision is reached regarding implementation of the “1.62 at 65” retirement formula election for current employees as described in Section 8. below. If current employees become eligible for the election, a new one-year period for the current level of match will be established, which will be one year from the plan commencement date for current employees. Should the current employees be deemed ineligible for the retirement formula election, the second year match, as described herein, shall be implemented within two (2) pay periods of the decision. During the second year and in subsequent years following the plan commencement date, the County will contribute to the DC Plan for an eligible employee a biweekly amount equal to fifty (50) percent of the biweekly amount that the employee contributes to a County defined contribution plan. The County contribution to the DC Plan shall not exceed two (2) percent of the employee’s base salary, unless the Board of Supervisors authorizes additional County contributions permitted under Section 7. D. below. County contributions to the DC Plan shall vest on behalf of the participant after that participant has been continuously employed by the County for a period of five (5) years. For this purpose, one year shall be equal to 2080 paid hours of service, exclusive of overtime.
- C. Employee contributions to a county defined contribution plan and the County contributions to the DC Plan shall be subject to contribution limits imposed by the Internal Revenue Service. In no event shall the County be required to pay any portion of the matching contributions that would cause the employee to exceed applicable Internal Revenue Service contribution limits.
- D. Should the County form a study group to develop and recommend to the Board of Supervisors criteria to be used to establish the County’s future matching contribution to the DC Plan as described in Section 7. B. above. OCMA may designate one member to participate on the study group. Notwithstanding the foregoing, the parties agree that at no time shall the County’s matching contribution to the DC Plan be less than fifty (50) percent of an employee’s contribution to a county defined contribution plan, nor shall the maximum amount of the County’s matching contribution to the DC Plan be less than two (2) percent of an employee’s base salary.

Section 8. Pension formula Election for Current Employees

Current employees will be eligible for the Pension Formula Election, in accordance with the plan commencement date specified in a Resolution adopted by the Board of Supervisors, once the pending tax issues have been resolved so that the election will not result in any negative tax consequences for current employees represented by OCMA.

Section 9. 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 remain in effect subject to approval by the Internal Revenue Service.

ARTICLE XVII NONDISCRIMINATION

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

OCMA shall not discriminate in membership or representation on any basis cited in this Article.

ARTICLE XVIII 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.

ARTICLE XIX EMPLOYEE RIGHTS

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

ARTICLE XX COMPENSATION

Section 1. Salary

The Human Resources Director has the authority to allocate classes to management ranges, and to determine the salary level of employees assigned to a new range.

Section 2. Management Performance Compensation

- A. Salary increases shall not be automatic. They shall be based upon performance and granted only upon the affirmative recommendation of the Agency/Department Head.
- B. Beginning January 2005, an employee in a regular or limited-term position shall be eligible for an annual performance-based increase.
- C. Managers shall receive performance evaluations and performance compensation in accordance with the Management Pay for Performance (P4P) Program adopted by the Board of Supervisors on April 22, 2008, subject to the following provisions for the term of this Agreement.
 - 1. For Performance Year 2010 (January 1, 2010 through December 31, 2010), the amount of the Performance Pool will be three (3) percent of bargaining unit salaries. Eligible managers in a classification represented by OCMA on January 14, 2011 will receive applicable performance awards effective January 14, 2011. Managers eligible for a performance award who separate from County service between January 14, 2011 and the first day of the pay period after Board adoption of the 2011 – 2013 MOU will receive a lump sum payment.
 - 2. For Performance Year 2011 (January 1, 2011 through December 31, 2011), the amount of the Performance Pool will be four (4) percent of bargaining unit salaries. Eligible managers will receive applicable performance awards effective January 13, 2012.
 - 3. For Performance Year 2012 (January 1, 2012 through December 31, 2012), the amount of the Performance Pool will be four (4) percent of bargaining unit salaries. Eligible managers will receive applicable performance awards effective January 11, 2013.
 - 4. Managers whose performance is rated as Exceptional, Exceeds Expectations, or Meets Expectations are eligible to receive an award, with managers rated as Meets Expectations eligible for a maximum of one (1) percent for Performance year 2010, and one and one-half (1.5) percent in Performance Years 2011 and 2012. The total amount of performance awards shall not exceed the Board approval pool funding.

5. The Administrative Management Salary Range will not increase in January 2011 or January 2012. Effective January 11, 2013, the Advertised Maximum of the salary range will be increased by two and one-half (2.5) percent. There will be no increase to the Bottom of the salary range or to the Outstanding Performance Range.
6. For performance awards to be paid effective January 14, 2011, all eligible managers will have the option to receive base building increases, as well as the other options available, such as a lump sum payment or annual leave balance.
7. For Performance awards to be paid effective January 13, 2012 and January 11, 2013, eligible managers whose salary is at or above the Advertised Maximum of the salary range shall have the option to receive a non-base building lump sum payment or annual leave balance only; managers may receive a partial base-building increase for any portion of performance award between their salary and the Advertised Maximum, with any remaining portion of the performance award being paid in a lump sum.

Section 3. Market/Equity Adjustments

- A. Upon request of an Agency/Department Head, or the Association, made within a 30 day period following adoption of the 2011 – 2013 MOU, for 2011, and the same designated 30 day period in 2012, the County Executive Officer, or his/her designee, may, based on consideration of such factors as external market data, internal salary relationships, position responsibilities, and sound management principles, approve additional individual salary increases which shall not exceed twelve (12) percent; however, no such increase shall cause an employee's salary to exceed the advertised maximum rate of the applicable salary range. Within thirty (30) days of the submission of the requests, the County and the Association will meet to discuss the requests under consideration.
- B. The aggregate total of market/equity adjustments approved during each calendar year shall not exceed one-sixth of one percent (.60%) of total bargaining unit salaries as calculated on July 1 each year.
- C. Market/Equity adjustments will not be considered for internal salary inequities that are due to performance based salary increases.
- D. Within 45 days of the receipt of the requests and subsequent discussions, the CEO, or his/her designee, will provide a determination of whether or not such requests shall be approved.

Section 5. Range Constraints

- A. No employee's salary shall exceed the maximum of the salary range, except pursuant to Y-Rate provisions of Article I.

- B. No employee's salary shall be less than the minimum rate in the range assigned to the class in which he or she is employed.

ARTICLE XXI REOPENER DISCUSSIONS

Section 1. Health Plans

There will be a reopener on approximately April 2, 2012 to discuss possible health plan changes for January 2013.

OCMA will work with the County during the term of the contract to explore flexible benefit plan options, such as cafeteria benefit type of plans.

Section 2. Pension Reform

OCMA will participate in any countywide discussions which occur during the term of the contract regarding pension reform.

MEMORANDUM OF UNDERSTANDING

2011 – 2013
COUNTY OF ORANGE
AND
ORANGE COUNTY MANAGERS ASSOCIATION

Orange County Managers Association

County of Orange

Mark McDorman
President

Thomas G. Mauk
County Executive Officer

Sharron Gibson Casler
Vice President



Carl H. Crown
Human Resources Director
Lead Negotiator

Stephen Schrieber-Smith
Secretary

Shelley Carlucci
HRD Human Resources Manager
Assistant Human Resources Director

Oscar Garza
Member-At-Large

Rosie Santiesteban
Human Resources Manager

Mike Montijo
Treasurer

Winnie Hewett
Child Support Services
Deputy Director

Marianne Reinhold
General Counsel




Karen Davis
Executive Director

Bryan Prieto
Probation Department
Juvenile Supervision

Date

Date

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

By: 

Deputy
Date: 6-13-11

APPENDIX A – JOB TITLES

8011MA	ADMINISTRATIVE MANAGER I
8012MA	ADMINISTRATIVE MANAGER II
8013MA	ADMINISTRATIVE MANAGER III
8014MA	ADMINISTRATIVE MANAGER III (SPL)
8011MP	ADMINISTRATIVE MANAGER I (Probation Management)
8012MP	ADMINISTRATIVE MANAGER II (Probation Management)
8013MP	ADMINISTRATIVE MANAGER III (Probation Management)

Appendix B

The County of Orange
And
The Orange County Managers Association
September 6, 2006

Term of contract: One year (expires January 31, 2007)

Retiree Medical

1. Establish Trust to administer Retiree Medical Grant Program effective January 1, 2007
2. Split the pool (actives/retirees) effective January 2008
3. Effective January 2008, grant will be increased each year calculated based on average increase of all County health care plans with a 3% maximum increase to the grant.
4. Once retiree becomes Medicare eligible, reduce the grant by 50% (current retirees age 65 no reduction; current retirees age 64 or younger, 50% reduction once reach Medicare eligibility – but no sooner than 1 year)
5. General members (non-safety) retiring after Board adoption (no later than September 26, 2006) – 7.5% reduction to the grant for each year pre-60 years of age; 7.5% increase to grant for each year worked after age 60 up to age 70
6. County funds cost of retiree medical effective June 23, 2006 (no employee contribution; 1% lump sum severance benefit phased out/frozen)

Wages

1. General salary increase and range adjustment of 4.5% effective June 23, 2006
2. Increase Optional Benefit Plan amount from \$3000 to \$3500, effective January 1, 2007
3. Effective June 23, 2006 eliminate "Confidential" pay and grandfather 401(a)

Health Care

1. Plan design changes as proposed by County effective January 1, 2008

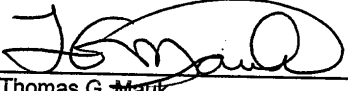
Pension (Cost of 2.7% at 55)

1. Effective June 23, 2006, general members' deduction pursuant to Article XVI, Section 5.D. of the MOU will increase from 6.64% to 8.09%


The foregoing reflects the County's last, best and final offer and is contingent upon OCMA completing its ratification process in order to agendaize on the September 19th or 26th, 2006 BOS regularly scheduled public meeting.

For the County:

For OCMA:



Thomas G. Mark
County Executive Officer



Appendix C

CONTRACT EXTENSION AGREEMENT
Orange County Managers Association (OCMA) and County of Orange

Effective upon ratification by the OCMA membership and approval by the Board of Supervisors, OCMA and the County of Orange agree to the following terms for the extension of the 2007-2010 Memorandum of Understanding (MOU):

1. The 2007-2010 MOU will be extended to January 3, 2011
2. The 2.0 percent merit increase due January 2009 will be effective October 9, 2009 for eligible, active employees of the bargaining unit
3. The 2.5 percent merit increase due January 2010 will be effective October 8, 2010 for eligible, active employees of the bargaining unit under the provisions of the Pay for Performance program
4. The three (3) percent general salary increase due June 2009 will be eliminated due to the County's fiscal hardship; and will be considered during negotiations for a successor MOU
5. Upon adoption of this Agreement by the Board of Supervisors, OCMA and the County agree to meet and confer regarding the implementation of Health Reimbursement Accounts
6. Upon adoption of this Agreement by the Board of Supervisors, OCMA and the County agree to meet and confer on the new Pension Program (Tier III), including review of actuarial analysis, for implementation at the same time as other bargaining units
7. All terms and conditions of the 2007-2010 MOU will remain in effect, except as modified by this Agreement

County of Orange



Carl H. Crown, Human Resources
Director

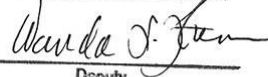
Sept. 17, 2009
Date

OCMA


Karen Davis, Executive Director

9-23-09
Date

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

By 
Deputy
Date: 9-29-09