

MEMORANDUM
OF
UNDERSTANDING

ALAMEDA COUNTY MANAGEMENT
EMPLOYEES ASSOCIATION
(CONFIDENTIAL UNIT)

AND

THE COUNTY OF ALAMEDA



December 29, 2008 through December 24, 2011

**2008-2011
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(CONFIDENTIAL UNIT)
AND
THE COUNTY OF ALAMEDA**

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BETWEEN
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
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AND
THE COUNTY OF ALAMEDA

THIS MEMORANDUM OF UNDERSTANDING is entered into by the Director Human Resource Services of the County of Alameda, said political subdivision hereafter designated as "COUNTY", and the Alameda County Management Employees Association, a non-profit mutual benefit corporation affiliated with OPERATING ENGINEERS LOCAL UNION NO. 3 of the International Union of Operating Engineers, AFL-CIO, hereafter designated as "ASSOCIATION", as a recommendation to the Board of Supervisors of the County of Alameda of those conditions of employment which are to be in effect during the period December 29, 2008 through December 24, 2011 for those employees working in representation unit referred to in Section 1. hereof.

SECTION 1. RECOGNITION

The County recognizes the Association as the exclusive bargaining representative for the following employees:

All full-time and part-time employees in classifications included in Bargaining Unit 50 (Confidential Management) as specifically enumerated in Appendix "A" attached hereto and Bargaining Unit 61 (Zone 7 Confidential Unit) as specifically enumerated in Appendix "C" hereto;

The County shall recognize the Association as the exclusive bargaining representative for employees in any other classification which may be established substantially within the scope of duties now included within the above-referenced classifications. On an as-needed basis, representatives of the County and Association shall meet for the purpose of assigning any other newly created Civil Service classifications to the appropriate bargaining units. Such placement shall be by mutual consent. In the case of a disagreement, the department head panel, as set forth in Section 3.44.050 of the County Administrative Code, shall decide the matter. If the disagreement involves another employee organization, an arbitrator shall decide the matter and shall be agreed upon by all parties of the disagreement. Each party to a hearing before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator and of a reporter shall be borne equally between the parties of the disagreement.

SECTION 2. NO DISCRIMINATION

No person in the classified service shall be reduced, or removed, or in any way favored or discriminated against because of his/her political or religious opinions or affiliations or because of racial or national origin, sexual orientation, and to the extent prohibited by law, no person shall be discriminated against because of age, sex, disability as defined by state and federal law. Complaints arising pursuant to the provisions of this subsection shall only be processed according to the Uniform Complaint Procedure contained in Appendix D, which is incorporated by reference to this Memorandum of Understanding.

A. **NO DISCRIMINATION ON ACCOUNT OF ASSOCIATION ACTIVITY.**

Neither County nor Association shall interfere with, intimidate, restrain, coerce, or discriminate against employees because of the exercise of rights to engage in Association activity.

SECTION 3. ASSOCIATION SECURITY

A. **NOTICE OF RECOGNIZED ASSOCIATION.** When a person is hired into a classification represented by the Association, the County shall notify such person(s) that the Association is the exclusive recognized bargaining agent for the employees in said representation unit and provide such person(s) with enrollment materials supplied by the Association for the sole purpose of joining the Association and effecting payroll dues deductions.

B. **NOTICE TO RECOGNIZED ASSOCIATION.** The County shall post within the employee work or rest area a notice which sets forth the classifications within each representation unit referred to in Section 1. hereof and the name and address of the Association. The County shall also give a written notice to the Association containing the names and addresses of all persons newly employed within the representation unit within thirty calendar days from the beginning of their employment.

C. **MAINTENANCE OF MEMBERSHIP.** Employees in representation units referred to in Section 1. hereof who are members of the Association on the date upon which this Memorandum of Understanding is executed or who become members of the Association during the term of this Memorandum of Understanding shall remain members during the term of this Memorandum of Understanding except that such employees may withdraw during the month of July of any year pursuant to subsection D.

D. **REVOCATION OF AUTHORIZATION.** Dues deduction shall be made only upon signed authorization from the employee. Any employee desiring to revoke his/her authorization for Association dues as provided above shall proceed as follows. Said employee shall, within the periods set forth above, forward a written request to the Human Resource Services-Employee Services Center setting forth his/her desire to revoke said authorization. The Human Resource Services-Employee Services Center shall promptly forward a copy of said letter to the Association. No authorizations shall be revoked for a period of two biweekly pay periods following transmittal of said letter to the Association. To be considered, a letter shall be received by the Auditor-Controller within the month of July as specified in subsection C.

Failure to timely notify the Human Resource Services-Employee Services Center shall be deemed an abandonment of the right to revocation until the next appropriate time period. Initial authorization shall be forwarded from the Agency/Department to a place or person designated by the Human Resource Services-Employee Services Center and shall be processed through payroll. The effective date of dues deductions for employees shall be the pay period immediately following receipt by the County of the dues deduction authorization. The effective date of any revocation of any existing authorization shall be the end of a biweekly pay period.

E. **PAYROLL DEDUCTIONS AND PAYOVER.** The County shall deduct Association dues from employees' pay in represented classes in conformity with State and County regulations. The County shall promptly pay over to the designated payee all sums so deducted. Employees may authorize dues only for the organization certified as the recognized employee organization of the units to which employees are assigned.

- F. **HOLD HARMLESS.** Association shall indemnify and hold the County and Human Resource Services-Employee Services Center harmless from any and all claims, demands, suits, or any other action arising from the maintenance of membership dues deductions, approved Association insurance programs, or from complying with any demand for termination hereunder.

SECTION 4. ASSOCIATION BULLETIN BOARD; MEETINGS; ACCESS TO EMPLOYEES

- A. **BULLETIN BOARDS.** Reasonable space shall be allowed on bulletin boards as specified by the Agency/Department Heads for use by the Association to communicate with departmental employees. Material shall be posted upon the bulletin board space as designated, and not upon the walls, doors, file cabinets or any other place. Posted material shall not be obscene, defamatory or of a partisan political nature, nor shall it pertain to public issues which do not involve the County or its relations with County employees. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed when no longer timely.
- B. **JOB CONTACTS.** Any authorized representative of the Association shall have the right to contact individual employees working within the representation units represented by their organization in County facilities during business hours on matters within the scope of representation providing prior arrangements have been made for each such contact with the Agency/Department Head who shall grant permission for such contact if, in his/her judgment, it will not disrupt the business of the work unit involved. When contact at the work location is precluded by confidentiality of records, or work situation, health and safety of employees or the public or by disturbance to others, the Agency/Department Head shall have the right to make other arrangements for a contact location removed from the work area.

Spontaneous arrivals during business hours at County facilities of Association representatives for the purpose of contacting individual employees without prior approval of the Agency/Department Head will not be allowed. If they do occur, meetings will not take place.

For purposes of this Memorandum of Understanding, "authorized representative of the Association" is defined as a paid employee of the Association and not a County employee.

- C. **MEETINGS.** Meetings of a representative of the Association and a group of employees shall not be permitted during duty hours other than a lunch period, except as provided in Section 16. hereof. The Agency/Department Head may, upon 48 hours prior notice, allow meetings of a representative of the Association and a group of employees in County facilities and at convenient times and dates. No contacts shall be permitted during working hours with employees regarding membership, collection of monies, election of officers, or other similar internal Association business.

SECTION 5. EMPLOYEE REPRESENTATIVES OF THE ASSOCIATION

- A. **RELEASE TIME FOR ASSOCIATION ACTIVITY.** Employee representatives of the Association's bargaining committee shall be allowed time to absent themselves from duties for a reasonable period without loss of pay, for the purpose of participating in contract negotiations. Employee representatives of the Association's bargaining committee shall be extended the same privilege to participate in any meetings mutually called by the parties during the term of this Memorandum of Understanding for review of grievances and contract compliance questions.

- B. **PURPOSE.** The County recognizes the need and affirms the right of the Association to designate authorized representatives of the Association from among employees in the unit. It is agreed that the Association in appointing such authorized representatives does so for the purpose of promoting effective working relationships.
- C. **ROLE OF THE AUTHORIZED REPRESENTATIVE OF THE ASSOCIATION.** The County recognizes the right of the Association to represent employees in connection with grievances which arise under Section 16 of this MOU.
- D. **SELECTION OF SITE REPRESENTATIVES.** The Association shall reserve the right to designate the method of selection of authorized representatives. The Association shall notify Labor Relations Department in writing of the names of the Association representatives and the units they represent. If a change in Association representatives is made, the Labor Relations Department shall be advised in writing of the Association representative being replaced and the Association representative named to take his/her place. The number of Association representatives shall be mutually agreed upon and a list of Association representatives shall be submitted to the Labor Relations Department.
- E. **DUTIES AND REPOSIBILITIES OF ASSOCIATION REPRESENTATIVE.** The following functions are understood to constitute the complete duties and responsibilities of the Association representative.
1. The employee may be represented by an Association representative at such time as a grievance is reduced to writing and provided to the Agency/Department. The Association representative shall report any release time taken for the purpose of investigating a grievance to his/her supervisor as Association representative leave (payroll code UNI) for timekeeping purposes.
 2. Representatives/employees who participate in the meet and confer process and/or participate on a labor management committee, must report such time to their supervisor as payroll code MCL for meet and confer and payroll code LMC for participation on a labor management committee.

SECTION 6. HOURS OF WORK AND REST PERIODS

- A. **HOURS OF WORK.** Hours of work in the normal workday shall be 8 hours; the normal workweek shall consist of 40 hours for all employees covered by this Memorandum of Understanding.
- B. **REST PERIODS.** Each employee shall be granted a rest period of 15 minutes during each work period of more than three hours' duration; provided, however, that such rest periods are not scheduled during the first or last hour of such period of work. In the event that the conduct of assigned job duties at a given location or on a given day may preclude the taking of a rest period by an employee, the employee waives his/her right to said rest period and any right or compensation therefor. No wage deduction shall be made nor time off charged against employees taking authorized rest periods, nor shall any rights or overtime be accrued for rest periods not taken. There is no obligation upon the County to provide facilities for refreshments during the rest periods, or for procurement thereof.
- C. **REQUIRED EQUIPMENT.** Employees are expected to be at their individual work stations with required equipment in operable condition at the scheduled shift starting time.

SECTION 7. HOLIDAYS

A. HOLIDAYS DEFINED

Paid holidays shall be:

January 1st

Third Monday in January (known as Dr. Martin Luther King, Jr. Day)

February 12th (known as Lincoln's Birthday)

Third Monday in February (known as Washington's Birthday)

Last Monday in May (known as Memorial Day)

July 4th

First Monday in September (known as Labor Day)

November 11th (known as Veterans' Day)

Thanksgiving

Day after Thanksgiving

December 25th

All other days appointed by the President of the United States or Governor of the State of California as a nationwide or Statewide public holiday, day of fast, day of mourning, or day of thanksgiving, provided that observance of the day as a paid holiday is approved in writing by three or more members of the Board of Supervisors.

In the event that the date of observance of any of the foregoing holidays which coincide with State holidays, set forth in the California Government Code Section 6700, is changed by statute, said holiday shall be observed on the date so established instead of the date provided in this Section. In no event shall this provision reduce the number of holidays set forth in this Memorandum.

- B. FLOATING HOLIDAY.** Effective January 1, 2003, each employee hired prior to July 1 of each year shall be entitled to four floating holidays. These holidays are to be scheduled by mutual agreement of the employee and the Agency/Department Head and taken within the calendar year. The first four full days (32 hours) of vacation or compensatory time off taken during each calendar year shall be charged as the floating holidays. Employees hired after July 1 will not be entitled to the floating holiday(s) for the calendar year in which they were hired. Less than full-time eligible employees shall be entitled to prorated floating holidays based upon a proration of the hours the employee is regularly scheduled to work.

C. HOLIDAYS TO BE OBSERVED ON WORK DAYS

In the event that January 1; February 12, known as "Lincoln's birthday"; July 4th; November 11, known as "Veterans Day"; or December 25, shall fall on a Saturday, said holiday shall be observed on the preceding Friday. In the event that any of said holidays enumerated in this subparagraph shall fall on a Sunday, said holiday shall be observed on the following Monday. A day proclaimed as a nationwide or statewide public holiday, day of fast, day of mourning, or day of thanksgiving and approved in writing by three or more members of the Board of Supervisors, shall be granted only to those employees who are regularly scheduled to work on the day for which such holiday is proclaimed.

When December 25, January 1, or July 4th occur in the calendar year on a Saturday or Sunday and a weekend worker is scheduled on said day, the employee shall celebrate the Christmas holiday on December 25, the New Year's holiday on January 1 and July 4th on the actual day rather than the County designated day of observance of the holiday.

SECTION 8. MEDICAL AND DENTAL PLANS

A. MEDICAL PLAN COVERAGE

1. Medical Plan Coverage for Full-time Employees December 29, 2008 through January 31, 2010.

- a. The County shall contribute the total monthly premium of the lowest cost Health Maintenance Organization (HMO) Plan offered by the County at the corresponding level of coverage (i.e. Self, Self + 1 Dependent, Family) in a Plan Year. The County will offer comprehensive group Medical Plans for eligible full-time employees, as well as their spouses/domestic partners and their eligible dependents.
- b. The County contribution toward the medical carrier premiums shall be the full cost of the lowest cost HMO plan for eligible, full-time employees. If an employee is on paid status, on less than a full-time basis, the County contribution shall be as specified in 8.A.4.

These benefit options shall be available as listed to the extent that the carrier continues to offer these benefits. The County shall give notice to the Association of such benefit changes. Upon receiving such notice, the Association may request to meet and confer regarding the effect of such benefit changes.

2. Medical Plan Coverage for Full-Time Employees February 1, 2010 through the remaining term of the MOU.

The County and covered employees will share in the cost of health care premiums. The County will pay 90% of the total premium for an HMO plan and an amount to be determined of the total premium for a PPO/Indemnity plan:

- a. The County shall contribute 90% of the total premium for an HMO at the corresponding level of coverage (i.e., Self, Self + 1 dependent, Family) in a Plan Year.
- b. The County shall contribute an amount to be determined of the total monthly premium for the PPO/Indemnity option or the Operating Engineers Health and Welfare Trust Plan. A meeting will be held in August/September 2009 to negotiate the County/Employee share of the PPO/Indemnity option or the Operating Engineers Health and Welfare Trust Plan.

3. Medical Plan Coverage for Employees Regularly Scheduled to Work Less than the Normal Work Week.

Any employee who is regularly scheduled to work **less than the normal work week** for the job classification shall be entitled to elect coverage under either the comprehensive group Medical Plan by a health maintenance organization, PPO/Indemnity, or the Operating Engineers Health and Welfare Trust Plan for full time employees; provided, however, that the employee is on paid status at least 50% of the normal full-time pay period for the job classification.

From December 29, 2008 through January 31, 2010, the County's contribution toward the provider's premium for such plan shall be the full-time contribution of the lowest cost HMO provider prorated each pay period based upon a proportion of the hours the employee is on paid status within that pay period to the normal full-time pay period for the job classification, provided the employee is on paid status at least 50% of the normal full-time biweekly pay

period for the job classification. If an employee is not on paid status at least 50% of the normal full-time pay period for the job classification, the employee will be responsible for paying the entire biweekly premium for the benefit.

From February 1, 2010 through the remaining term of the MOU, the County's contribution toward the provider's premium shall be 90% of the total monthly premium for an HMO prorated each pay period based upon a proportion of the hours the employee is on paid status within that pay period to the normal full-time pay period for the job classification, provided that the employee must be on paid status at least 50% of the normal full-time biweekly pay period for the job classification. Part-time employees who choose the PPO/Indemnity plan or the Operating Engineers Health and Welfare Trust Plan, will receive an amount to be determined of the total monthly premium, prorated based upon the number of hours paid for in the pay period. A meeting will be held in August/September 2009 to negotiate the County/Employee share of the PPO/Indemnity option or the Operating Engineers Health and Welfare Trust Plan. If an employee is not on paid status at least 50% of the normal full-time pay period for the job classification, the employee will be responsible for paying the entire biweekly premium for the benefit.

4. **Duplicative Coverage:** This section applies to married County employees or employees with domestic partners when both are employed by the County. The intent of this Section limits County employees who are married or in a domestic partnership from both covering each other within the same Medical Plan. Married County employees or employees with a domestic partner, (as defined in the appendices) both employed by the County, shall be entitled to one choice from the following list of health plan coverages:
 - a. Up to one full family PPO/Indemnity membership.
 - b. Up to one full family HMO membership.
 - c. Up to one full family HMO membership with up to one full family PPO/Indemnity membership.
 - d. Up to one full family PPO/Indemnity membership with up to one full family PPO/Spousal membership.
 - e. Up to one full family HMO membership with up to one full family alternative HMO membership.
 - f. Up to one full family Operating Engineers – Health and Welfare Trust Plan membership with up to one full family Operating Engineers Trust alternative plan.
5. **Effect of Authorized Leave Without Pay on Medical Plan Coverage:** Employees who were absent on authorized leave without pay, and whose medical plan coverage was allowed to lapse for a duration of three months or less, will be able to re-enroll as a continuing member in the same plan under which they had coverage prior to the authorized leave by completing the appropriate enrollment form within thirty calendar days of the date they return to work. The deductibles, maximums, and waiting periods shall be applied as though the employee had been continuously enrolled. The effective date of coverage will be based on guidelines established by the County.

Those whose health plan coverage was allowed to lapse for a duration greater than three months will be able to re-enroll within thirty calendar days of the date they return to work in the same manner as is allowed for new hires. Such employees will be subject to new deductibles, maximums, and waiting periods.

6. **30-Day Re-Enrollment:** For employees who are enrolled in the indemnity spousal plan, an employee whose spouse's or domestic partner's health plan coverage is no longer available, may, within thirty calendar days of such loss of coverage, enroll in one of the County's Health Plans.
7. **Open Enrollment:** Eligible employees may choose from among any plan offered by the County or the Operating Engineers Health and Welfare Trust during the open enrollment period in the Fall of 2002 and annually thereafter.

B. **DENTAL PLAN OPTIONS.**

1. **Dental Plan Coverage for Full-time Employees:**

- a. For coverage through the remaining term of this Memorandum of Understanding, the County shall contribute the total monthly premium for a dental plan for eligible full-time employees, as well as their eligible dependents, provided that the employee is on paid status at least 50 percent of the normal full time pay period for the job classification. Eligible full-time employees may elect any one of the following Dental Plan options. The County contribution shall apply to the dental plan options listed below.

These benefit options shall be available as listed to the extent that the carrier continues to offer these benefits. The County shall give notice to the Association of such benefit changes. Upon receiving such notice, the Association may request to meet and confer regarding the effect of such benefit changes.

- 1) A PPO/Indemnity dental plan
- 2) A pre-paid, closed panel dental plan
- 3) A supplemental spousal plan option
- 4) Married County employees or employees in domestic partnerships both employed by the County, shall be entitled to elect one choice from the following list of dental plan coverages:
 - (a) Up to one full family PPO/Indemnity Dental plan with up to one supplemental Spousal Dental plan.
 - (b) Up to one full family PPO/Indemnity Dental Plan with up to one full family closed panel Dental Plan.
 - (c) Up to one full family PPO/Indemnity Dental Plan.
 - (d) Up to one full family closed panel Dental plan.

- 5) The Operating Engineers Health and Welfare Trust Plan - This option is only available in combination with the Medical Plan option offered through the Operating Engineers Health and Welfare Trust Plan.

2. **Dental Plan Coverage for Employees Regularly Scheduled to Work Less than the Normal Work Week:**

- a. For coverage through the remaining term of this Memorandum of Understanding, the County shall contribute the total monthly premium for a Dental Plan for **less than full time** employees and their eligible dependents, provided, however, that the employee is on paid status at least 50% of the normal full-time pay period for the job classification. To participate, an employee has to be scheduled at least 50% of the normal full-time pay period for the job classification.

Should an employee fail to have been on paid status at least 40 hours in any biweekly pay period they will be responsible for the biweekly premium payment for the benefit.

3. **Effect of Authorized Leave Without Pay on Dental Coverage:** Employees who were absent on authorized leave without pay, and whose dental plan coverage was allowed to lapse for a duration of three months or less, will be able to re-enroll as a continuing member in the same plan under which they had coverage prior to the authorized leave by completing the appropriate enrollment form within 30 calendar days of the date they return to work. The deductibles, maximums, and waiting periods shall be applied as though the employee had been continuously enrolled. The effective date of coverage will be based on guidelines established by the County.

Those whose dental plan coverage was allowed to lapse for a duration greater than three months will be able to re-enroll within 30 calendar days of the date they return to work in the same manner as is allowed for new hires. Such employees will be subject to new deductibles, maximums, and waiting periods.

4. **30-Day Re-Enrollment:** For employees who are enrolled in a County sponsored Dental Plan, and experience a Change in Status, such as: marriage, adoption, loss of dental coverage by spouse/domestic partner, must within 30 calendar days of the change in status, enroll in or add/drop eligible dependents to one of the County sponsored Dental Plans.
5. **Open Enrollment:** Eligible employees may choose a Dental Plan during the annual Open Enrollment period. Premiums of all Dental Plans will be paid according to level of coverage (Self, Self +1 Dependent, or Family).

C. **CHANGES IN MEDICAL AND DENTAL COVERAGE.** During the term of this MOU, the County and Association shall investigate the feasibility of offering or eliminating alternative medical and/or dental health plan(s).

The Association and the County agree to participate in good faith in meet and confer discussions concerning the County's Medical Plans during the term of the MOU. Both parties agree that revisions in Medical Plans may be necessary to reduce costs to both employees and the County. The Memorandum of Understanding shall be reopened at the County's request to meet and confer to discuss and mutually agree upon possible changes related to the health and dental plans.

SECTION 9. AFFIRMATIVE ACTION

Both the County and the Association hereby recognize and confirm their mutual commitment to the philosophies and policies set forth in the Affirmative Action Program of the County of Alameda.

SECTION 10. ADDITIONAL COMPENSATION

A. BILINGUAL PAY

1. **Positions Designated Bilingual**: Upon the recommendation of the Agency/Department Head and the approval of the Director of Personnel and Labor Relations, a person occupying a position designated as requiring fluency in a language other than English shall receive an additional \$30.00 per biweekly pay period. A person occupying such a position and having proficiency in three or more languages, shall receive \$35.00 per pay period provided that such a person is required to utilize such additional languages in the course of his/her duties for the County. Effective June 14, 2009, the compensation for a person occupying a position designated as requiring fluency in a language other than English shall receive an additional \$40.00 per biweekly pay period. A person occupying such a position and having fluency in three or more languages shall receive \$45.00 per pay period provided that such a person is required to utilize such additional languages in the course of his/her duties for the County.
2. **Bilingual Pay for Services Requested**: An employee who has taken and passed a bilingual proficiency test coordinated by the County Personnel Department and administered by a person who has been certified as bilingually proficient (including sign language for the deaf) shall be compensated an additional \$30.00 in any pay period in which the employee is directed by the Agency/Department Head to use and uses the bilingual skills in the course of the employee's assignment. The bilingual proficiency test and the County's determination as to an employee's bilingual competency shall not be subject to the grievance procedure. Effective June 14, 2009, this compensation shall be increased to \$40 per pay period.

SECTION 11. NOTICE OF LAYOFFS

The County shall give reasonable notice to the Association before effecting any layoffs which materially affect employees represented under this Memorandum of Understanding. Upon receiving such notice, the Association may meet and confer regarding the effect of the layoff.

SECTION 12. LEAVES OF ABSENCE

- A. **LEAVE MAY NOT EXCEED NINE MONTHS**. A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave, but such leave shall not be for longer than nine months, except as hereinafter provided.
- B. **NO LEAVE TO ACCEPT OUTSIDE EMPLOYMENT**. A leave of absence without pay may not be granted to a employee accepting either private or public employment outside the service of the County of Alameda, except as hereinafter provided.

- C. **MILITARY LEAVE.** Every employee shall be entitled to military leaves of absence as specified in Chapter 7, Part 1, Division 2 of the California Military and Veterans Code. The employee must present to the supervisor a copy of his/her military orders which specify the dates and duration of such leave.

If such employee shall have been continuously employed by the County for at least one year prior to the date such absence begins, he/she shall be entitled to receive paid military leave as follows:

1. Paid military leave which may be granted during a fiscal year is limited to an aggregate of 30 calendar days during ordered military leave, including weekend days and travel time.
2. During the period specified in subsection A. above, the employee shall be entitled to receive pay only for those days or fractions of days which the employee would have been scheduled to work and would have worked but for the military leave.
3. The rate of pay shall be the same rate the employee would have received for shifts he/she would have been scheduled to work or scheduled for paid holiday leave, had he/she not been on military leave.
4. In no event shall an employee be paid for time he/she would not have been scheduled to work during said military leave. Time spent on military leave shall be included in determining eligibility to occupy a classification based upon length of service.

- D. **TEMPORARY APPOINTMENT DUE TO MILITARY LEAVE.** The Agency/Department Head may grant an employee a leave of absence without pay from his position to permit such employee to be temporarily appointed to fill a position which is vacant as the result, and during the period of, a military leave of absence.

- E. **EDUCATIONAL LEAVE.** A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave for the purpose of education, but no one such leave of absence shall exceed a period of one year.

- F. **LEAVE WHEN LENT TO OTHER GOVERNMENTAL AGENCY OR GOVERNMENTAL INSTITUTION.** A leave of absence without pay may be granted by the Agency/Department Head to any employee who is lent to another governmental jurisdiction, to an agency engaged in a survey of government practices, or to an educational institution, but no one such leave of absence shall exceed a period of one year.

- G. **LEAVE OF ABSENCE TO ACCEPT APPOINTMENT TO THE UNCLASSIFIED SERVICE.** A leave of absence without pay may be granted to an employee to permit such person to accept employment for an indefinite period in the unclassified Civil Service of the County or in a position outside the County service, the salary of which is paid in whole or in part by the County. Upon termination of such employment, such person shall revert to the position from which said leave of absence was granted and, in the event such position has been filled by another person, the reduction in force procedures set forth in the Civil Service Commission Rules shall apply.

- H. **LEAVE OF ABSENCE TO ACCEPT APPOINTMENT TO ANOTHER POSITION IN THE CLASSIFIED SERVICE.** An employee having tenure in a classification in the classified service of the County may be granted a leave of absence without pay from the position to which he/she has tenure until he/she obtains tenure to such other position, or his/her appointment thereto is terminated for any reason, whichever first occurs. In the event of the return of such employee to the position

from which leave of absence was granted, the employee with the least seniority in such class in such Department shall be laid off if all authorized positions are filled.

- I. **LEAVE FOR ASSIGNMENT TO SPECIAL PROJECT.** An employee having tenure in a classification in the classified Civil Service, who is appointed to the classification of Project Specialist, may be granted a leave of absence without pay from the classification in which he/she has tenure, by the Agency/Department Head, for the duration of said employee's assignment to the special project.
- J. **DISABILITY LEAVE FOR OTHER EMPLOYMENT.** Anything in this Memorandum of Understanding to the contrary notwithstanding, any person who, because of sickness or injury, is incapable of performing his/her work or duties in the service of the County but who is nevertheless capable of performing other work or duties outside the service of the County may, within the discretion of the Agency/Department Head, be granted sick leave of absence without pay during such disability to accept such employment.
- K. **PREGNANCY AND CHILD BONDING LEAVE.** A pregnant employee is entitled to a pregnancy and child bonding leave of up to six months, the dates of which are to be mutually agreed by the employee and Agency/Department. Such an employee may elect to take accrued vacation or compensating time off or sick leave during the period of pregnancy and child bonding leave, except that in the case of an employee who is regularly scheduled to work **less than the normal full-time** work week for the classification, paid leave shall be granted only for those days, or fractions thereof, on which such an employee would have been regularly scheduled to work and would have worked but for the pregnancy and child bonding leave. The employee shall be entitled to sick leave with pay accumulated pursuant to subsection 14.D. of this Memorandum and, with the approval of the Department Head, to sick leave with pay for which she is otherwise eligible pursuant to subsection 14.D of this Memorandum. Notwithstanding the above, the employee is entitled to take up to seven (7) months of total leave for the integration of the disability and child bonding leaves pursuant to the California Family Rights Act. These leaves, when eligible, are taken concurrently with FMLA.

Reinstatement subsequent to pregnancy and child bonding leave of absence shall be to the same classification from which leave was taken, and the Agency/Department Head shall make its best effort to return such employee to the same geographical location, shift and where there is specialization within a classification, to the same specialization. Questions as to whether or not the Agency/Department Head has used its best effort herein shall not be subject to the grievance procedure.

- L. **CHILD BONDING LEAVE.** A prospective father, spouse, domestic partner or adoptive parent is entitled to paternity child bonding leave of up to three consecutive calendar months, the dates of which are to be mutually agreed by the employee and the Agency/Department Head. Such an employee may elect to take accrued vacation or compensating time off during the period of child bonding leave, except that in the case of an employee who is regularly scheduled to work less than the normal full-time work week for the classification, paid leave shall be granted only for those days, or fractions thereof, on which such an employee would have worked but for paternity adoptive leave. The use of sick leave during child bonding leave shall not be permitted to fathers, spouses, domestic partners, or adoptive parents unless they are otherwise eligible to use it as provided in subsection 14.H. Reinstatement subsequent to child bonding leave of absence shall be to the same classification from which leave was taken and the Agency/Department Head shall make his/her best effort to return such employee to the same geographical location, shift, and where there is a specialization within a classification, to the same specialization. Questions as to whether

or not the Agency/Department Head has made its best effort herein shall not be subject to the grievance procedure.

- M. **EFFECT OF LEAVE WITHOUT PAY.** No benefits or time credit such as sick leave or vacation shall be earned during the period when an employee is absent on leave without pay.

SECTION 13. VACATION LEAVE

Employees in the service of the County shall accrue vacation as specified below. Vacation pay shall be granted only for those days or fractions thereof on which employees would have been regularly scheduled to work and would have worked but for the vacation period. An employee who is regularly scheduled to work less than the normal work week for the job classification shall accrue vacation leave accordingly. Vacation accrual shall be prorated each pay period based upon a proration of the hours worked within that pay period to the normal full-time pay period for the job classification.

A. VACATION ACCRUAL

1. Effective April 14, 2002, each employee in the service of the County employed after January 1, 1956 shall accrue vacation leave according to the following schedules.
 - a. **Two weeks accrual** – Employees shall accrue two weeks of vacation annually until completion of 104 full-time biweekly pay periods (4 years) of continuous employment.
 - b. **Three weeks accrual** – Employees shall accrue three weeks of vacation annually after the completion of 104 full-time biweekly pay periods (4 years) of continuous employment and until completion of 286 full-time biweekly pay periods (11 years) of continuous employment.
 - c. **Four weeks accrual** – Employees shall accrue four weeks of vacation annually after the completion of 286 full-time biweekly pay periods (11 years) of continuous employment and until completion of 520 full-time biweekly pay periods (20 years) of continuous employment.
 - d. **Five weeks accrual** – Employees shall accrue five weeks of vacation annually after the completion of 520 full-time biweekly pay periods (20 years) of continuous employment.

B. CASH PAYMENT IN LIEU OF VACATION LEAVE.

For persons employed after January 1, 1956.

- a. An employee who accrues vacation leave pursuant to subsections 13A(1), and who leaves the County service for any reason shall be paid at the biweekly or hourly rate for each classification as set forth in Appendix “A,” for unused vacation accrued to the date of his/her separation provided that such entitlement shall not exceed the employee’s applicable maximum vacation balance as set forth in subsection 13C.
- b. Employees shall have the primary responsibility to schedule and take sufficient vacation leave to reduce their accrued vacation leave balances to a level which will

avoid a downward adjustment. The Agency/Department Head shall make a reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to a level which will avoid a downward adjustment.

- C. **LIMITATION ON UNUSED VACATION LEAVE BALANCES.** Maximum vacation leave balances allowable prior to the pay period containing January 1 of each year beginning the year 2000, shall be no more than two times the employee's vacation accrual rate and shall be as follows:

Vacation Accrual Rate in Pay Period Prior to January 1	Maximum Balance in Pay Period Containing January 1
2 weeks	4 weeks
3 weeks	6 weeks
4 weeks	8 weeks
5 weeks	10 weeks

- D. **DATE WHEN VACATION CREDIT STARTS.** Vacation credit shall begin on the first day of employment.
- E. **MAXIMUM ALLOWABLE VACATION BALANCE.** As of the pay period containing January 1, 2000 and every such pay period containing January 1 thereafter, the vacation leave balance of any employee which exceeds the maximum accrual will be adjusted downward to the maximum vacation balance level (by placing the excess vacation in a departmental catastrophic sick leave pool) and the County will thereafter have no obligation with respect to the vacation leave affected by the adjustment. Department Heads shall make a reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination or to avoid a downward adjustment.
- F. **MAXIMUM VACATION LEAVE.** An employee shall be allowed to take one and one-half times his/her annual vacation accrual during any calendar year, provided that he/she has accumulated sufficient unused vacation leave. An employee, with the permission of the Agency/Department Head may take vacation in excess of one and one-half times his/her annual vacation accrual during any calendar year, if he/she has accumulated sufficient unused vacation leave.
- G. **DEFINITION.** For the purpose of this Section, "working day" shall mean any day upon which an employee would normally be required to work.
- H. **EFFECT OF ABSENCE ON CONTINUOUS SERVICE.** Absence on authorized leave with or without pay, and time during which an employee is laid off because his/her services are not needed, and time during which an employee is temporarily not employed by the County, if followed by reemployment within three years, shall not be considered as an interruption of continuous service for the purpose of this Section, but the period of time such employee is absent on authorized leave without pay or so laid off or so temporarily not employed shall not be counted in computing such year of continuous employment for the purpose of this Section, provided further, that for purposes of qualifying for fifteen, twenty, or twenty-five working days' vacation leave, where an employee has been employed by the County without interruption for the past ten years, all service of such employee shall be deemed to have been continuous.
- I. **WHEN VACATION MAY BE TAKEN.** Paid leave may be granted up to a maximum of 80 hours in a pay period only for those days or fractions thereof on which an employee would have been regularly scheduled to work and would have worked but for the vacation leave.

Vacations will be scheduled by mutual agreement between the Agency/Department Head and the employee. An employee shall be allowed to divide his vacation leave in any calendar year into two segments. The Agency/Department Head, at his discretion, may grant an employee additional segments of vacation.

- J. **PERSONAL LEAVE.** An employee shall be allowed two days in any calendar year from his/her regular vacation allowance for personal leave.

The Agency/Department Head shall not deny a request for this leave except for reasons critical to the operation of the department. Such personal leave shall be in segments of one-half day or more for non-exempt employees as defined by the FLSA.

- K. **RATE OF VACATION PAY.** Compensation during vacation shall be at the rate of compensation as set forth for each classification in Appendix "A" which such employee would have been entitled to receive, including premium pay, while in active service during such vacation period.

- L. **VACATION TRANSFER.** Married couples or domestic partners, employed by the County, may elect to transfer up to five days of their accrued vacation leave balances to their spouse or domestic partner (Ref. Appendix B.) per each event of maternity, paternity and adoption.

- M. **CONTINUATION OF SECTION.** Section 13C. shall remain in full force and effect notwithstanding the expiration of the other sections of this Memorandum of Understanding on, December 24, 2011 as provided in Section 26., and unless otherwise agreed to by the County, shall be incorporated into the successor Memorandum of Understanding.

- N. **EMPLOYEE ENTRY INTO BARGAINING UNITS COVERED BY THIS MOU.** Employees who enter a bargaining unit covered by this Agreement after January 1, 2000 shall have two full calendar years to reduce his/her vacation balance to the maximum allowable, unless the employee is coming from a bargaining unit where the "maximum allowable vacation balance" is already applicable.

After two full calendar years, the vacation leave balance of any employee which exceeds the maximum balance allowable will be adjusted downward to the maximum balance allowable (by placing the excess vacation in a departmental catastrophic sick leave pool) and the County will thereafter have no obligation with respect to the vacation leave affected by the adjustment. Department Heads shall make a reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination or to avoid a downward adjustment.

- O. **VACATION PURCHASE PLAN.** All full-time employees subject to this MOU may elect to purchase one or two additional weeks of vacation over and above their regular entitlement as set forth in Section 13A. of this MOU.

Beginning the Fall of 2002, employees eligible for vacation purchase may elect to purchase either one or two weeks of vacation under the Vacation Purchase Plan during Open Enrollment. On the first pay period of the calendar year, the employee's vacation balance will be updated with the additional amount of vacation purchased. Employees may then use the vacation time purchased, scheduled by mutual agreement between the employee and the Agency/Department Head.

Employees will then pay for the vacation time purchased in equal installments during the calendar year. Should an employee use their purchased vacation time, and leave the employment of the County prior to paying for the additional vacation, the County will recover the cost from the employee.

Effective upon adoption of the 2006 MOU, the following conditions shall apply to vacation purchase:

1. Employees eligible for vacation purchase may elect to purchase either one or two weeks of vacation under the Vacation Purchase Plan during Open Enrollment.
2. On the first pay period of the calendar year, the employee's vacation balance will be updated with the additional amount of vacation purchased. Employees may then use the vacation time purchased, scheduled by mutual agreement between the employee and the Agency/Department Head. Employees will then pay for the vacation time purchased in equal installments during the calendar year.
3. To be eligible to purchase vacation, an employee must have completed payment for any previous vacation purchased and an employee must have no more than one week of unused vacation three (3) pay periods prior to the start of Open Enrollment.
4. To be eligible to purchase two weeks of vacation, an employee must have completed payment for any previous vacation purchased and have used all previously purchased vacation three (3) pay periods prior to the start of Open Enrollment.
5. In the event that an employee uses purchased vacation and leaves County service prior to paying for it, the County reserves the right to recover the cost from the employee, including deducting any sum owed from the employee's final pay warrant.
6. In the event that an employee is unable to cover the cost of purchased vacation in any pay period(s) due to insufficient pay, the County reserves the right to adjust the future pay period amount.
7. In the event that a participating employee moves between a 40-hour per week position and a 37.5-hour per week position, s/he shall carry over his/her purchased vacation balance in the same number of days and fractions of days.
8. In the event that an employee changes status from eligible to purchase vacation to a non eligible status:
 - a. The County shall cease deductions and no additional days will be allowed for purchase.
 - b. The County shall adjust the purchased vacation balance by any unpaid time.
 - c. The employee shall be allowed to retain the time purchased as of the date of the change from eligible to ineligible through the final pay period of the calendar year of the date of ineligibility.
 - d. The employee shall be allowed to use the time purchased through the final pay period of the calendar year of the date of ineligibility.
 - e. The employee shall be paid for the time not taken as of the 1st pay period of the following year.

- f. If the employee has used the purchased vacation time prior to completing payment, the County reserves the right to recover the cost from the employee at the time of ineligibility.
- 9. In the event that an employee experiences a pay rate change during the plan year, the total annual cost will remain the same as the time of enrollment.
- 10. Except for Personal Leave granted under Section 13J., purchased vacation must be utilized before vacation balances accrued pursuant to Section 13A. or 13E. are utilized. In the event that an employee has exhausted vacation balances accrued pursuant to Section 13A. then purchased vacation may be utilized for Personal Leave granted under Section 13J.
- 11. For purposes of cash payment of vacation leave, vacation purchased pursuant to this section shall be combined with vacation accrued. Said combined vacation balance shall be subject to the cash payment in lieu of vacation leave as set forth in Section 13B. or 13E. of this MOU.

SECTION 14. SICK LEAVE.

- A. **SICK LEAVE DEFINED.** As used in this Section, "sick leave" means leave of absence of an employee for illness or injury which renders the employee incapable of performing assigned work or duties for the County, and routine medical or dental appointments of the employee or exposure to contagious disease.
- B. **EMPLOYEE DEFINED.** As used in this Section, "employee" means any person holding a regular, provisional, or temporary appointment in the County service, and otherwise subject to the provisions of this Memorandum of Understanding.
- C. **SICKNESS OR INJURY IN COURSE OF EMPLOYMENT.** Except for safety members who are subject to the provisions of California Labor Code Section 4850, if an employee is incapacitated by sickness or injury received in the course of his/her employment by the County, such employee shall be entitled to pay as provided herein.

1. **Amount and Duration of Payment:**

- a. Such employees shall be entitled to receive supplemental industrial sick leave with pay commencing with the fourth calendar day of the incapacity. The supplement shall be equal to the difference between 80% of his/her normal salary and the amount of any Worker's Compensation temporary disability payments to which such employee is entitled during such incapacity. This period shall not exceed one calendar year from the date of sickness or injury resulting in the incapacity. Following one calendar year, available leave balances may be granted to supplement temporary disability payments to provide the disabled employee a total of 80% of salary (the amount of sick leave necessary for this purpose is computed in each case by the County Auditor-Controller's Office) unless the employee provides written notice to the Agency/Department Head to limit the integration of such leaves. Available leave balances shall include sick leave, vacation leave, compensating time off, floating holidays and holiday in-lieu time.

In the event that the period of the incapacity exceeds 21 calendar days, the employee so incapacitated shall be granted supplemental industrial sick leave with pay at the

rate of 100% of his/her normal salary for the first three calendar days of such incapacity. If the period of the incapacity does not exceed 21 calendar days, the employee so incapacitated will be eligible to receive any available leave balance for scheduled work days for the first three work days of such incapacity.

- b. Effective for injuries that occur on or after June 14, 2009, such employees shall be entitled to receive industrial sick leave wage continuation commencing with the fourth calendar day of the incapacity. The industrial sick leave wage continuation shall be equal to the difference between 75% of his/her normal salary and the amount of any Worker's Compensation temporary disability payments to which such employee is entitled during such disability. This period shall not exceed two hundred seven (270) calendar days from the date of sickness or injury resulting in the incapacity. Following two hundred seventy (270) calendar days, available leave balances may be granted to supplement temporary disability payments to provide the disabled employee up to no more than 75% of the normal salary received at the time of the injury. Available leave balances shall include sick leave, vacation leave, compensating time off, floating holidays, and holiday in-lieu time.

In the event that the period of the incapacity exceeds 14 calendar days, the employee so incapacitated shall be granted supplemental industrial sick leave with pay at the rate of 100% of his/her normal salary for the first three calendar days of such incapacity. If the period of the incapacity does not exceed 14 calendar days, the employee so incapacitated will be eligible to receive any available leave balance for scheduled work days for the first three work days of such incapacity.

2. **When Payments Shall be Denied.** Payments shall not be made pursuant to subsection 14.C.1. to an employee:

- a. Who does not apply for or who does not receive temporary disability benefits under the Worker's Compensation Law,
- b. Whose injury or illness has become permanent,
- c. Whose injury or illness, although continuing to show improvement, is unlikely to improve sufficiently to permit the employee to return to work in his/her position,
- d. Who is retired on permanent disability, or pension,
- e. Who unreasonably refuses to accept other County employment for which he/she is not substantially disabled,
- f. Whose injury or illness is the result of failure to observe County health or safety regulations or the commission of a criminal offense,
- g. Whose injury or illness has been aggravated or delayed in healing by reasons of the failure of the employee to have received medical treatment or to have followed medical advice, except where such treatment or advice has not been sought or followed by reason of the religious beliefs of the employee, and,

- h. Whose injury or illness is a recurrence of re-injury of an earlier job-related injury or illness, or is contributed to by a susceptibility or predisposition to such injury or illness related to an earlier job-related injury or illness.
3. **Fringe Benefit Entitlement During Industrial Injury Leave.** Employees receiving industrial sick leave with pay shall maintain and accrue all benefits to which they are entitled under this Memorandum of Understanding at 100% of their regularly scheduled biweekly hours immediately preceding an industrial illness or injury.
4. **Leave for Medical Treatment.** Effective January 1, 1996, employees with an approved Workers' Compensation claim who have returned to work and are required by their physician to undergo therapy, diagnostic tests or treatment due to an industrial injury/illness shall receive Industrial Leave with pay under the following conditions:
- a. Treatments are being paid under Workers' Compensation;
 - b. The therapy, diagnostic tests or treatment falls within the employee's normal working hours;
 - c. The leave applies only to the actual treatment time and reasonable travel time not to exceed 30 minutes to and 30 minutes from the medical facility.
 - d. Effective June 14, 2009, an employee whose injury has reached the permanent and stationary or maximal medical improvement level or whose approved Worker's Compensation claim has been settled or stipulated (with or without future medical benefits) is not eligible for Industrial Sick Leave with pay for further medical treatment for that injury.

D. **CUMULATIVE SICK LEAVE PLAN.**

1. **Accumulation of Sick Leave for Full-Time Employees.** Each employee shall accumulate sick leave with pay entitlement at the rate of one-half workday for each full biweekly pay period on paid status. The Agency/Department Head shall grant to such an employee, incapacitated by injuries or sickness, sick leave with pay, but not in excess of his accumulated unused sick leave with pay entitlement.
2. **Accumulation of Sick Leave for Part-Time Employees.** Each employee who is regularly scheduled to work **less than the full time** 40 hour work week base shall accrue sick leave pursuant to Section 14.D.1 above, except that the sick leave accrual shall be prorated each pay period based upon the proportion of the hours worked within a pay period to the 40 hour work week base.

E. **DISCRETIONARY MAJOR MEDICAL SUPPLEMENTAL SICK LEAVE.** The Agency/Department Head, in his sole discretion, may grant to an employee discretionary major medical supplemental paid sick leave. The Agency/Department Head's determination to deny major medical supplemental sick leave shall be final and non-grievable.

1. **Eligibility:** To be eligible for major medical supplemental sick leave, an employee must have been continuously employed from a date prior to July 1, 1975 through September 2, 1979.

2. **Limits:** A maximum aggregate lifetime eligibility of 176 hours for those eligible employees who, as of June 25, 1979, had completed 26 pay periods and less than 130 pay periods. In the case of such an employee who, as of June 25, 1979, had completed 130 pay periods of continuous employment, the maximum aggregate lifetime eligibility for major medical supplemental paid sick leave shall be 352 hours.
3. **Criteria Which Must be Met Before Granting Major Medical Supplemental Paid Sick Leave:** Major medical supplemental paid sick leave may be granted only in those instances in which:
 - a. the employee exhausted paid cumulative sick leave entitlement accrued pursuant to subsection 14.E. hereof, including sick leave bonuses,
 - b. the employee's absence is caused by a serious injury or illness requiring prolonged absence from work,
 - c. the injury or illness was not incurred in the course of employment, AND
 - d. the employee has not incurred a break in service subsequent to June 24, 1979.

F. **MEDICAL REPORT.** The Agency/Department Head as a condition of granting sick leave with pay, may require medical evidence of sickness or injury acceptable to the Agency/Department. The acceptable medical evidence must be obtained from a medical practitioner currently treating the employee or the employee's family member.

G. **FAMILY SICK LEAVE.**

Effective January 1, 2006, employees are eligible to use, in any calendar year, up to nine days of sick leave to care for an ill family member; time reasonably necessary to arrange for care of an ill family member by others; and/or to accompany a family member to medical and dental appointments. For the purpose of this Subsection, "family member" means, mother, step-mother, father, step-father, husband, wife, domestic partner (as defined in Appendix E), child of domestic partner, son, step-son, daughter, step-daughter, foster parent, foster child, mother-in-law, father-in-law, or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, brother, sister, brother-in-law, sister-in-law, and grandparents.

H. **DEATH IN IMMEDIATE FAMILY.** A regularly scheduled employee may be granted up to five days of leave of absence with pay by the Agency/Department Head because of death in the immediate family. An employee shall be allowed to take such leave within a four week period. For purposes of this subsection, "immediate family" means mother, stepmother, father, stepfather, husband, wife, domestic partner (upon submission of an affidavit as defined in the appendices), son, stepson, daughter, stepdaughter, brother, sister, grandparent, grandchild, foster parent, foster child, mother-in-law, and father-in-law, or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, a brother-in-law, sister-in-law.

Entitlement to leave of absence under this subsection shall be only for all hours the employee would have been scheduled to work for those days granted, and shall be in addition to any other entitlement for sick leave, emergency leave, or any other leave.

- I. **SICK LEAVE DAYS OR FRACTIONS OF DAYS.** Paid leave may be granted up to a maximum of 80 hours in a pay period only for those days or fractions thereof on which an employee would have been regularly scheduled to work and would have worked but for the sick leave.

SECTION 15. WAGES

- A. Effective December 22, 2002, for those employees who are members of and are required to make an employee contribution to the Alameda County Employee Retirement Association (ACERA) the County shall pay a portion of the employee's contribution to the Alameda County Employee Retirement Association in an amount equal to three percent (3%) of the employee's salary.
- B. Effective December 22, 2002, for those current employees who are 30 year members of the Alameda County Employee Retirement Association (ACERA), and do not make contributions to the Alameda County Employee Retirement Association (ACERA) because they are 30 year members, the County shall contribute an amount equal to three percent (3%) of the employee's salary into a 401A plan pursuant to IRC 414 (h)(2) established by the County.
- C. The County contribution set forth in Section 15 A and B above shall be for full time employees on full time paid status. If the employee is on paid status less than full time, the County contribution shall be prorated each pay period based upon a proportion of the hours worked within that pay period to the normal full time pay period for the job classification.
- D. The job classes unique to the Alameda County Flood Control and Water Conversation District, Zone 7 listed in Appendix C are excluded from the provisions of this section.

SECTION 16. GRIEVANCE PROCEDURE

- A. **DEFINITION.** A grievance under this Memorandum of Understanding is limited to only those instances where an employee or group of employees alleges in writing that the County has failed to provide a condition of employment specifically set forth in this Memorandum of Understanding, as adopted by ordinance, by written agency/departmental rules, or in the annual Salary Ordinance provision that is directly relevant to the grievance or grievant, and provided that the enjoyment of such right is not made subject to the discretion of the County; and, provided further that the condition of employment which is the subject matter within the scope of representation as defined in California Government Code Section 3504.
- B. **EXCLUSION OF CIVIL SERVICE MATTERS.** The grievance procedure herein established shall have no application to matters over which the Civil Service Commission has jurisdiction pursuant to the County Charter or rules adopted thereunder.
- C. **DEPARTMENTAL REVIEW AND ADJUSTMENT OF GRIEVANCES.** The following is the procedure to be followed in the resolution of grievances.
1. **Step One:** An employee having a grievance shall first discuss it with his/her immediate supervisor and endeavor to work out a satisfactory solution in an informal manner with such supervisor.
 2. **Step Two:** If a satisfactory solution is not accomplished by informal discussion, the employee shall have the right to consult with and be assisted by a representative of his/her

own choice in this and all succeeding steps of subsection 16.C and may thereafter file a grievance in writing with his/her immediate supervisor within seven working days of the date of such informal discussion.

Within seven working days after receipt of any written grievance, the immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing. If the grievance is not resolved at this level, the employee shall have seven working days after receipt of the answer within which to file an appeal to the section head.

3. **Step Three:** The section head, or corresponding administrative level, shall have seven working days in which to review and answer the grievance in writing. If the grievance is not resolved at this level, the employee or his/her representative shall have seven working days from receipt of the answer within which to file an appeal with the division head, or corresponding administrative level.
 4. **Step Four:** The division head, or corresponding administrative level, shall have seven working days in which to review and answer the grievance in writing. Although no hearing is required at this step, the employee and his/her representative may be present at, and participate in, any such hearing as the division head may conduct. If the grievance is not resolved at this level, the employee shall have seven working days from receipt of the answer within which to file an appeal with the Agency/Department Head.
 5. **Step Five:** The Agency/Department Head shall have fifteen working days after holding the grievance hearing for a grievance filed by an individual and twenty working days after holding the grievance hearing of an Association grievance filed pursuant to this section in which to answer the grievance in writing. Unless waived by the mutual agreement of the employee or his/her representative and the Agency/Department Head, a hearing is required at this step, and the employee, and his/her representative, shall have the right to be present at, and participate in, such hearing. The time limit at this step may be extended by mutual agreement between the Agency/Department Head and the employee or his/her representative.
- D. **ASSOCIATION GRIEVANCE.** The Association may in its own name file a grievance alleging that the County has failed to provide it some organizational right which is established by this Memorandum of Understanding, provided that such right is not made subject to the discretion of the County. Such Association grievances shall be filed with the Agency/Department Head and heard and determined pursuant to the provisions of the fifth step of the grievance procedure.
- E. **WAIVER OF APPEAL STEPS.** If the grievance is not resolved after the first-line supervisor has answered it in writing, the Association and the Agency/Department Head may by mutual agreement waive review of the grievance at the section head or equivalent level, or at the division head or equivalent level, or both, in those in which such levels of management are without authority to resolve the grievance as requested by the employee.
- F. **BINDING ARBITRATION OF GRIEVANCES.** In the event that the grievance is not resolved at Step 5 of subparagraph C. herein, the grievant or his/her representative may, within 30 days after receipt of the decision of the Agency/Department Head made pursuant to said subparagraph C., request that the grievance be heard by an arbitrator.
- G. **INFORMAL REVIEW BY DIRECTOR.** Prior to the selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Director of Human Resource Services shall

informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Director of Human Resource Services shall have ten working days in which to review and seek adjustment of the grievance.

- H. **SELECTION OF ARBITRATOR.** The arbitrator shall be selected by mutual agreement between the Director of Human Resource Services and the employee or his/her representative. If the Director of Human Resource Services and the employee or his/her representative is unable to agree on the selection of an arbitrator, they shall jointly request the American Arbitration Association to submit a list of five qualified arbitrators. The Director of Human Resource Services and the employee or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.
- I. **DUTY OF ARBITRATOR.** Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be final and binding upon the parties. The arbitrator shall not have the power to amend this Memorandum of Understanding, a Resolution of the Board of Supervisors, the Charter, Ordinance, State law, or written agency/departmental rule, or to recommend such an amendment. The arbitrator shall also not have the power to declare any provision(s) of this Memorandum of Understanding, a Resolution of the Board of Supervisors, the Charter, Salary Ordinance, or any State statute or regulation unlawful.
- J. **PAYMENT OF COSTS.** Each party to a hearing before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator and of a reporter shall be borne one-half by the County and one-half by the grievant.
- K. **EFFECT OF FAILURE OF TIMELY ACTION.** Failure of the employee to file an appeal within the required time limit at any step shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.
- L. **LIMITATION OF STALE GRIEVANCES.** A grievance shall be void unless presented within 60 calendar days after the date upon which the County has allegedly failed to provide a condition of employment. This 60 day filing requirement is tolled only in the following applications:
1. To up to 60 days after the County's alleged failure was reasonably discoverable, or,
 2. Up to 60 days after when the grievant may reasonably claim he or she delayed the filing of a grievance as a direct consequence of representations made by the County upon which the grievant relied to his/her detriment.

An arbitrator shall have no power or jurisdiction to award any monetary damages or relief for any claim that is stale, as set forth herein.

- M. **CLAIM FOR MONEY RELIEF (JURISDICTIONAL LIMIT ON ANY AMOUNT IN CONTROVERSY).** Notwithstanding subsection L. above, in no event shall any grievance include a claim for money relief for more than a 60-day period. The application of this period shall be as follows. The earlier of:
1. The 60-day period is limited to that which immediately precedes the filing of the grievance, or,

2. The 60-day period is limited to that which immediately precedes the date upon which the grievant reasonably discovers the basis for the grievance or can be reasonably found to have delayed in filing due to detrimental reliance upon representations made by the County, as set forth in section L, 1 and 2 above.

This provision does not establish any limit for liability accruing after a grievance is filed. An arbitrator shall have no power or jurisdiction to award any monetary relief or damages for any claim which has or may have accumulated prior to the 60-day period as set forth herein.

- N. **EXCLUSION OF NON-RECOGNIZED ORGANIZATIONS.** For purposes of this Section the provisions of Section 1. of this Memorandum of Understanding shall be construed to limit the employee's right of selection of a representative to the extent that agents of any other employee organization as defined in Section 7-2.06 of the Alameda County Administrative Code, which is not a party to this Memorandum of Understanding, are specifically excluded from so acting. In those cases in which an employee elects to represent himself/herself or arrange for other representation, the Association shall have the right to participate in the resolution procedure for the purpose of protecting the interests of its members in negotiated conditions of employment.
- O. **GRIEVANCE RIGHTS OF FORMER EMPLOYEES.** A person who because of dismissal, resignation, or layoff is no longer a County employee may file and pursue a grievance at the department head level and may also pursue such grievance through the remaining levels of the grievance procedure provided that the grievance is timely filed as provided in subsections 16.D. and E. hereof, that the grievance is filed no later than 30 calendar days from the date of issuance of the warrant complained of, that the issue would otherwise be grievable under this subsection and provided further, however, that under no circumstances may a former employee file or pursue any grievance unless it relates solely to whether such person's final pay warrant(s) correctly reflected the final salary, or fringe benefits taken in the form of cash owed to such person.

SECTION 17. MILEAGE

- A. **MILEAGE RATES PAYABLE.** Mileage allowance for authorized use of personal vehicles on County business shall be paid at the standard business rate as prescribed by the Internal Revenue Service. Mileage allowance shall be adjusted to reflect changes in this rate effective the first month following announcement of the changed rate by the Internal Revenue Service.
- B. **MINIMUM ALLOWANCE.** An employee who is required by the Agency/Department Head to use his private automobile at least eight days in any month on County business shall not receive less than \$10 in that month for the use of his automobile.
- C. **REIMBURSEMENT FOR PROPERTY DAMAGE.** In the event that an employee, required or authorized by the Agency/Department Head to use a private automobile on County business, while so using the automobile, should incur property damage to the employee's automobile through no negligence of the employee, and the employee is unable to recover the cost of such property damage from either his/her own insurance company or from any other driver, or other source, such costs shall be paid to such employee of the County up to the employee's own insurance deductible, but not to exceed \$500 provided that any claims the employee may have against his/her insurance company or any third party have been litigated or settled, and provided further, that the employee is not found guilty of a violation of the California Vehicle Code or Penal Code in connection with the accident causing such damage. Employees shall submit proof of loss, damage or theft (i.e.,

appropriate police report and/or estimated statement of loss) to the Agency/Department Head within 30 days of such loss, damage or theft. Property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's normal place of work shall not be compensated under this section, but property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's County business destination shall be compensable as provided above.

SECTION 18. DISABILITY INSURANCE BENEFITS

- A. **Participation:** The County shall continue to participate under the State Disability Insurance (SDI) Program.
- B. **Disability Insurance Benefits**
1. **Payment of SDI Premiums.** SDI premiums shall be shared equally by the employee and the County.
 2. **Integration of Supplemental Fringe Benefits with Disability Insurance Benefits.** An employee otherwise eligible for disability insurance benefits shall have the choice of:
 - (a) not applying for disability insurance benefits and using accrued paid leave, vacation leave, compensating time off, floating holiday pay, and/or, with the consent of the Agency/Department Head, discretionary major medical supplemental paid sick leave, or
 - (b) applying for disability insurance benefits and the using of accrued paid sick leave, and, with the consent of the Agency/Department Head, vacation leave, compensating time off, floating holiday pay, and/or discretionary major medical supplemental paid sick leave as a supplement to the disability insurance benefits. The amount of the supplement for any hour of any normal workday shall not exceed the difference between 100% of the employee's normal gross salary rate, including premium conditions, and applicable salary ordinance footnotes, and the "weekly benefit amount" multiplied by two and divided by 80. The employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off, and/or floating holiday balances shall be charged only for the hours (to the nearest one-tenth of an hour), represented by the amount paid as such supplement.
 3. **Amount of Supplement.** The amount of the supplement provided in subsection 18.B.2.b. hereof, for any hour of any normal work day, shall not exceed the difference between 100% of the employee's normal gross salary rate, including premium pay and applicable salary ordinance footnotes, and the "weekly benefit amount" multiplied by two and divided by 80.
 4. **How a Supplement to SDI is Treated.** Hours, including fractions thereof, charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off, and/or floating holiday balances as supplements to disability insurance benefits will be regarded as hours of paid leave of absence.

Vacation and sick leave shall be accrued based upon the proportion of the hours charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances to the normal pay period.

5. **Health Plan Coverage in Conjunction with SDI.** For purposes of determining eligibility for the County's contributions toward the health plan as described in Section 8., employees who are receiving a supplement to disability insurance benefits paid from and charged to accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances shall be regarded as on paid status for their regular work schedules with regard to the days for which supplement is paid.

The group health care providers will permit employees, who are dropped from health and/or dental plan coverage because of exhaustion of their accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances, to re-enter the group plans upon returning to full-time work.

6. **Holidays in Conjunction with SDI.** In the event that a paid holiday occurs during a period of absence for which the employee receives disability insurance benefits, the holiday shall be prorated in proportion to the amount paid to the employee as a supplement to the disability insurance benefit from accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off, and/or floating holiday balances on the day before and the day after the holiday.

SECTION 19. CATASTROPHIC SICK LEAVE PROGRAM

An employee may be eligible to receive donations of paid leave to be included in the employee's sick leave balance if s/he has suffered a catastrophic illness or injury which prevents the employee from being able to work or from being able to work his/her regularly scheduled number of hours. Catastrophic illness or injury is defined as a critical medical condition considered to be terminal, a long-term major physical impairment or disability.

Eligibility:

- A. The recipient employee, recipient employee's family, or other person designated in writing by the recipient employee must submit a request to the Human Resource Services Department.
- B. The recipient employee is not eligible so long as s/he has paid leaves available, however, the request may be initiated prior to the anticipated date leave balances will be exhausted.
- C. A confidential medical verification including diagnosis and prognosis and estimated date of return to work must be provided by the recipient employee.
- D. A recipient employee is eligible to receive 180 working days of donated time per employment.
- E. Donations shall be made in full day increments of 8 hours, and are irrevocable. The maximum that may be donated in a calendar year is two donor employee's day per recipient except that effective January, 1996 a husband and wife and domestic partners (as defined in Appendix B), both employed by the County, may donate unlimited amounts of time between one another. In addition, effective January 1, 1996, employees with vacation balance that exceeds the amount that can be

paid off may donate unlimited amounts of vacation to an Agency/Department catastrophic sick leave pool. Effective June 14, 2009, employees may donate unlimited amounts of time. All donations are irrevocable.

- F. The donor employee may donate vacation, compensatory time or in lieu holiday time which shall be converted to recipient employee's sick leave balance and all sick leave provisions will apply. Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.
- G. The donor's hourly value will be converted to the recipient's hourly value and then added to the recipient's sick leave balance on a dollar-for-dollar basis.
- H. The recipient employee's entitlement to personal disability leave will be reduced by the number of hours added to the recipient's sick leave balance.
- I. The determination of the employee's eligibility for Catastrophic Sick Leave donation shall be at the County's sole discretion and shall be final and non-grievable.
- J. Recipient employees who are able to work but are working less than their regular schedule will integrate Catastrophic Sick Leave donations with time worked and their own paid leaves, which must be used first, not to exceed 100% of the employee's gross salary.

SECTION 20. LONG TERM DISABILITY INSURANCE POLICY

Effective January 1, 1996, a long term disability insurance policy will be made available for the employee only. **Coverage can be purchased only through the use of vacation sellback (up to 10 days).** (See Section 7-4 of the Salary Ordinance.) Effective June 14, 2009, disability insurance policies available to the employee only may be purchased through the use of vacation sellback (up to 10 days) or through payroll deduction. These policies are subject to premium costs, requirements, age limitations, coverage exclusions, conversion rights, and all other provisions set forth in the applicable insurer contracts.

SECTION 21. MANAGEMENT BENEFITS

Employees eligible to participate in the Management Benefits and Cafeteria Plan may continue to participate subject to any amendments/changes that may occur. Such amendments or changes may occur at any time and are at the sole discretion of the Board of Supervisors. Effective January 1, 2010 the County's contribution towards M-designated benefits shall be increased from \$2,300 to no more than \$2,600 per calendar year. Effective January 1, 2011 the County's contribution towards M-designated benefits shall be increased from \$2,600 to \$2,900 per calendar year. This provision applies to the following ACMEA represented employees: Rep Units R50 and R61.

SECTION 22. AGENCY/DEPARTMENT HEAD DEFINED.

"Agency/Department Head," as used in this Memorandum of Understanding, shall mean the Agency/Department Head designee thereof.

SECTION 23. EFFECT OF LEGALLY MANDATED CHANGES

In the event that on or after the effective date of this Memorandum of Understanding, State, Federal or decisional law shall mandate the granting to employees of benefits or other terms and conditions of employment which duplicate, supplement, or otherwise impinge upon benefits or other terms and conditions of employment set forth herein, the provisions of this Memorandum of Understanding so duplicated, supplemented, or impinged upon shall be void and of no further effect as of the date the mandated benefit or term and conditions of employment become effective, but the parties hereto shall meet and confer with regard to such benefit or other term and condition of employment in order to assure that the State, Federal or decisional mandate does not result in an overall increase or loss of benefits to employees in the area so affected.

SECTION 24. NO STRIKE - NO LOCKOUT

There shall be no lockout or strike, slowdown, work stoppage, or willful absence from assigned work station, during the life of this Memorandum of Understanding. The Association agrees to assist the County in enforcing the provision of this Section.

SECTION 25. SAVINGS CLAUSE

If any provision of this Memorandum of Understanding shall be held invalid by operation of law or by any court of competent jurisdiction, or if compliance with enforcement of any provision shall be restrained by any tribunal, the remainder of this Memorandum of Understanding shall not be affected thereby, and the parties shall enter into negotiation for the sole purpose of arriving at a mutually satisfactory replacement for such provision.

SECTION 26. ENACTMENT

It is agreed that the foregoing shall be jointly submitted to the Alameda County Board of Supervisors by the Director of Human Resource Services and the Alameda County Management Employees Association of Alameda County, affiliated with OPERATING ENGINEERS UNION LOCAL NO. 3 of the International Union of Operating Engineers, AFL-CIO for the Board's consideration and approval. Upon approval, the Board shall adopt an ordinance which shall incorporate this Memorandum of Understanding by ordinance. Upon such adoption, the provisions of this Memorandum of Understanding shall supersede and control over conflicting or inconsistent County Ordinances and Resolutions.

SECTION 27. SCOPE AND TERM OF AGREEMENT

Except as otherwise specifically provided herein, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto regarding the provisions contained in this Memorandum of Understanding. Neither party shall, during the term of this Memorandum of Understanding, demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of the Memorandum of Understanding by mutual agreement. This Memorandum of Understanding shall become effective upon the approval of the Board of Supervisors and shall remain in full effect to and including, December 24, 2011, except for Section 13. Vacation Leave, which shall continue in full effect as, provided in subsection 13. M.

SIGNED AND ENTERED INTO THIS 24 DAY OF APRIL, 2009

FOR COUNTY OF ALAMEDA

FOR ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION affiliated with OPERATING ENGINEERS UNION LOCAL NO. 3 of the INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO

Diana Doughtie
DIANA DOUGHTIE
IEDA

Casey Nice PRES IEDTA ACMEA
CASEY NICE
President

Lilybell Nakamura
LILYBELL NAKAMURA
Human Resource Services

Alan Elnick by CCN
ALAN ELNICK
Business Representative, Public Employee Division

Vanessa Bradley
VANESSA BRADLEY
Human Resource Services

Peggy E. Hodes

Mary Jo DeCoulode
MARY JO DECOULODE
Human Resource Services

Janeva Rosenberg

Cynthia Baron
CYNTHIA BARON
Human Resource Services

Valerie Whisenand
DW Ferry

Mary Welch
MARY WELCH, INTERIM DIRECTOR
Human Resource Services

Approved as to Form:
Richard Winnie, County Counsel

By: [Signature]

APPENDIX A

Listed herein are all those Alameda County job classifications represented by the Alameda County Management Employees Association in Representation Unit R50. The salaries shown are established by the Alameda County Board of Supervisors, and are effective on the dates shown.

REPRESENTATION UNIT R50

	EFFECT	STEP 01	STEP 02	STEP 03	STEP 04	STEP 05
1227	M A	Admin Secretary				
	12/30/2007	2325.60	2433.60	2537.60	2648.00	2771.20
0221	M A	Admin Services Officer				
	12/30/2007	2809.60				3757.60
0282	CA	Benefits Analyst				
	12/30/2007	2891.20				4219.20
0460	M A	Departmental Personnel Offcr I				
	12/30/2007	2455.20				3525.60
1354	CA	Exec Asst To Retirement Assn				
	12/30/2007	1979.20	2068.80	2159.20	2252.80	2356.00
0291	CA	Human Resource Analyst III				
	12/30/2007	3114.40				3786.40
0279	CA	Human Resources Analyst I				
	12/30/2007	2252.80				2740.00
0280	CA	Human Resources Analyst II				
	12/30/2007	2455.20				3525.60
0277	SM	Human Resources Support Sup				
	12/30/2007	2171.20				2908.00
0278	CA	Human Resources Technician				
	12/30/2007	2003.20				2433.60
0285	SM	Principal HR Analyst				
	12/30/2007	3488.00				4240.80
0489	PA	Risk Analyst				
	12/30/2007	2633.60				4036.00
1220	M	Secretary II				
	12/30/2007	2120.00	2210.40	2301.60	2408.80	2513.60
1221	M A	Suprvsing Secretary II				
	12/30/2007	2223.20	2321.60	2418.40	2530.40	2636.80
0488	PA	Worker's Compensation Admin				
	12/30/2007	2653.60				4066.40

APPENDIX B

DOMESTIC PARTNERS

Domestic Partner Defined. A "domestic partnership" shall exist between two persons, one of whom is an employee of the County, covered by this Memorandum of Understanding, regardless of their gender and each of them shall be the "domestic partner" of the other if they both complete, sign and cause to be filed with the County a notarized "County of Alameda Affidavit of Domestic Partnership" (or submit to the County a notarized "Declaration of Domestic Partnership" [State Form DP-1] filed with the California Secretary of State) attesting to the following:

- a. the two parties reside together and share the common necessities of life;
- b. the two parties are: not married to anyone; eighteen years or older; not related by blood closer than would bar marriage in the State of California; and mentally competent to consent to contract;
- c. the two parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
- d. the two parties agree to notify the County if there is a change of circumstances attested to the affidavit;
- e. the two parties affirm, under penalty of perjury that the assertions in the affidavit are true to the best of their knowledge.

Termination. A member of a domestic partnership may end said relationship for County benefit purposes by filing a "County of Alameda Affidavit of Domestic Partnership" form. For those who filed a "State Declaration of Domestic Partnership," a copy of a notarized State of California "Notice of Termination of Domestic Partnership [State Form DP-2] filed with the State of California must be provided to the County.

New Statements of Domestic Partnership. No person who has filed an affidavit of domestic partnership may file another such affidavit until six months after a statement of termination of the previous partnership has been filed with the County or State of California as described herein (and all other criteria have been met which establishes the domestic partnership).

APPENDIX C

Alameda County Flood Control and Water Conservation District, Zone 7 job classes represented by Alameda County Management Employees Association are covered by the Memorandum of Understanding except for Section 15 - Wages which are set in a separate Memorandum of Understanding between the Board of Directors of Zone 7 and Alameda County Management Employees Association.

<u>Item #</u>	<u>Classification</u>
4906M	Human Resources Manager
4904M	Personnel Technician
4920M	Executive Secretary

APPENDIX D

Chapter 3.48

EMPLOYMENT DISCRIMINATION COMPLAINT PROCEDURES

Sections:

3.48.010	Purpose.
3.48.020	Scope.
3.48.030	Application to civil service matters and grievance procedures set forth in memorandums of understanding.
3.48.040	Objectives.
3.48.050	Definitions.
3.48.060	Filing of FEPC and EEOC complaints not prohibited.
3.48.070	Informal and formal procedures.
3.48.080	Costs of hearing.
3.48.090	Representation.
3.48.100	Freedom from reprisal.

3.48.010 Purpose.

The purpose of this procedure is to provide a uniform and effective system for resolving certain allegations and complaints of employment discrimination. (Prior admin. code 2-18.01)

3.48.020 Scope.

This procedure pertains to allegations made by aggrieved persons of discrimination in regard to recruitment, appointment, training, promotion, retention, discipline or other aspects of employment because of race, religion, color, sex, handicap, sexual orientation, age, national origin, political affiliation or any other factor which applicable state or federal law or regulation prohibits as the basis for discrimination in employment. Complaints which do not allege discrimination based upon one or more of the foregoing factors will not be handled under this procedure.

Where applicable, this procedure supersedes the grievance procedure set forth in Chapter 3.44 of this code. This procedure does not confer upon nontenured employees the right to a good cause hearing upon the imposition of disciplinary action. (Prior admin. code 2-18.02)

3.48.030 Application to civil service matters and grievance procedures set forth in memorandums of understanding.

This procedure shall not apply to complaints relating to matters within the jurisdiction of the civil service commission under the Charter until and unless the commission elects to make this procedure applicable to such complaints. In such event, the findings and decision of the hearing officer or arbitrator shall be made to the commission for final determination. This procedure shall apply to complaints of discrimination pursuant to grievance procedures set forth in memorandums of understanding only in the event that such memorandums specifically provide for its application to such complaints. In the event that the use of this procedure is not adopted by the commission or specified by the applicable memorandum of understanding, an aggrieved person who elects to pursue an appeal through procedures provided by the commission or the memorandum of understanding may not pursue the same allegations of discrimination under this procedure. (Prior admin. code 2-18.03)

3.48.040 Objectives.

The objectives of this procedure are: to provide an efficient means of resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements; to decrease significantly formal complaints which are expensive, time consuming and detrimental to good employee relations; and to sensitize managers and supervisors to the needs of individual employees or groups and to improve their capability of handling problems before they become complaints (Prior admin. code 2-18.04)

3.48.050 Definitions

“Affirmative action coordinator” means the agency/department affirmative action coordinator or other person in close reporting relationship to top management who is assigned the responsibility of managing the procedure for handling discrimination complaints.

“Complainant” means an aggrieved person who has filed a formal complaint.

“Discrimination in regard to age” means disparate treatment of persons who are at least forty (40) years of age but less than seventy (70) years of age, as prohibited by the U.S. Age Discrimination in Employment Act of 1967, or of persons who are at least forty (40) years of age, as prohibited by the California Fair Employment Practice Act.

“Discrimination in regard to handicap” means disparate treatment of persons having a physical or mental handicap not related to employment needs or the person’s ability to perform the duties of the job.

“Equal employment opportunity counselor” means an employee trained in equal employment opportunity procedures and counseling techniques to provide informal counseling on matters pertaining to discrimination.

Factors Which Applicable State or Federal Law or Regulation Prohibits as the Basis for Discrimination in Employment. These factors are those personal or social characteristics which are unrelated to either the needs of the position or to employment in general. Such factors as poor personal hygiene, unwillingness or inability to take direction, to work in harmony with supervision, peers, or the public, or to work without excessive absenteeism are examples of factors which normally are related to the needs of the position and to employment.

“Formal complaint” means written complaint which states clearly the basis for an allegation of discrimination and the relief requested. (Prior admin. code 2-18.05)

3.48.060 Filing of FEPC and EEOC complaints not prohibited.

This procedure is not intended to and does not interfere with the rights of an aggrieved person to file a complaint with the Fair Employment Practice Commission, the Equal Employment Opportunity Commission, the courts, or, except as specifically provided herein, any other available source or redress. (Prior admin. code 2-18.07)

3.48.070 Informal and formal procedures.

A. An aggrieved person may contact the designated equal employment opportunity counselor no later than thirty (30) days from the alleged discrimination, except that when the action complained of is a specific personnel action, of which the employee has notice, such as a promotion, demotion, rejection for appointment, or disciplinary action, the contact with the designated equal employment opportunity counselor may be made no later than ten days from the alleged discrimination. The equal employment opportunity counselor shall consult with the aggrieved person and, after making necessary inquiries, shall counsel him on the issues of the case, and seek informal resolution of the problem. The equal employment opportunity counselor shall keep a record of counseling activities and shall advise the aggrieved person of the formal complaint process and of his or her right to file complaints thereunder, under civil service rules, under an applicable memorandum of understanding, or pursuant to state and federal statutes. The

equal employment opportunity counselor shall complete the informal pre-complaint counseling within fifteen (15) working days of being contacted by the aggrieved person.

B. Resolving Formal Complaints.

1. Departmental Review. If informal resolution of the problem through conciliation and negotiation cannot be effected, an aggrieved person may file a formal complaint with the departmental affirmative action coordinator or other designated official. Such a complaint must be filed on a form provided for this purpose and within five working days after the attempted resolution of the problem by the equal employment opportunity counselor or within twenty-five (25) working days after the date of the alleged discriminatory action, whichever shall first occur. The affirmative action coordinator will decide whether the complaint falls within the jurisdiction of the procedure and accept or reject it. Upon acceptance of the complaint, the affirmative action coordinator shall obtain the notes on the case from the equal employment opportunity counselor; may conduct a prompt, impartial investigation if he deems it necessary; shall explore the possibility of resolving the problem through negotiation or conciliation; shall present findings and recommendations on resolving the complaint to the agency/department head; and within forty-five (45) working days from the date the formal complaint was filed, shall present his written decision, as approved by the agency/department head, to the complainant, with a copy of the complaint and decision to be forwarded to the director of personnel.

2. Appeal from Decision of Department Head. The decision of the department head shall be final unless appealed by the complainant to the director of personnel within ten working days of the date of mailing or personal delivery of the decision to the aggrieved person.

3. Review County Affirmative Action Officer. The director of personnel shall forward a copy of the decision and appeal to the county affirmative action officer who shall have ten working days from the date of filing of the appeal in which to determine whether to conduct his or her own investigation of the problem. In the latter event, the county affirmative action officer shall have twenty (20) additional working days in which to complete his or her investigation, counseling or settlement efforts.

4. Setting of Hearing. If the county affirmative action officer decides not to conduct his own investigation or if his or her efforts to settle the problem are unsuccessful, the director of personnel shall set the appeal for hearing before a State Hearing Officer or, by mutual agreement of the complainant and the agency/department head, before an agreed-upon arbitrator.

5. Exclusion of Frivolous or Vague Appeals and Appeal Therefrom. In the event that the director of personnel shall determine that the complaint is frivolous, vague, or that the facts alleged in the complaint, even if true, would not substantiate a claim of discrimination, or that the appeal claims discrimination based upon a factor for which state or federal law or regulation does not prohibit discrimination, he or she shall not schedule the appeal for hearing. The aggrieved person may, within ten working days of the mailing to him or her of notice that the complaint has been rejected by the director of personnel, request that the director's action be reviewed by an impartial practicing attorney selected by the civil service commission. If the aggrieved person makes such an appeal, the director of personnel shall forward to the impartial attorney a copy of the complaint, the written decision of the agency/department head, and of his or her determination which is the subject of the request for review. The impartial attorney, after reviewing the foregoing documents and without a hearing, shall determine whether the action of the director of personnel in refusing to schedule the appeal for hearing was correct. The determination of the impartial attorney in this regard shall be final, but a determination by the impartial attorney that

the appeal should be scheduled for hearing shall not preclude the hearing officer or arbitrator from determination, upon the evidence adduced at the hearing, that the factor upon which the disparate treatment was based was related to the needs of the position or to employment in general.

6. Hearing of Appeal. The hearing officer or arbitrator shall fully hear the complaint and make written findings of fact as part of its decision. The decision of the hearing officer or arbitrator, on matters of employment discrimination within the scope of this procedure, shall be binding on the department/agency head. The director of personnel shall notify the Merit Systems Services of the California State Personnel Board regarding the disposition of all formal complaints received and of all heard by a hearing officer or arbitrator. (Prior admin. code 2-18.07)

3.48.080 Costs of hearing.

The cost of the hearing officer or the arbitrator, as well as of any reporter required by the hearing officer or arbitrator, shall be paid by the county. In the event, however, that the aggrieved person is represented in his or her appeal by a recognized employee organization or is furnished counsel by said organization, the costs of the hearing officer or the arbitrator as well as of the reporter shall be shared equally by the county and the organization. (Prior admin. code 2-18.08)

3.48.090 Representation.

The aggrieved person/complainant has a right to be accompanied, represented and advised by a person of his or her own choosing at all stages of the process, but no recognized employee organization shall be obligated to furnish such representation or advice except upon such basis as the aggrieved person/complainant and the recognized employee organization shall mutually agree. (Prior admin. code 2-18.09)

3.48.100 Freedom from reprisal.

An aggrieved person/complainant, his or her representative, and witness shall be free from restraint, interference, coercion, discrimination or reprisal at all stages in presenting and processing a complaint, including the informal counseling state. (Prior admin. code 2-18.10)

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**SIDELETTER OF AGREEMENT
BETWEEN THE
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT AND CONFIDENTIAL)
AND
THE COUNTY OF ALAMEDA**

**TENTATIVE AGREEMENT TO
UNION PROPOSAL #30 EFFECTIVE 2009 PLAN YEAR**

March 11, 2009

Intent: To enter into a sideletter agreement to increase the annual maximum dental benefit.

The maximum annual benefit for each covered individual is \$1200 for PPO/Indemnity dental plan. The maximum annual benefit for each covered individual shall increase to \$1,450 in 2009.

FOR THE COUNTY:

Diana Daughton
Alanau
Mary Jo DeCoulade
Tanessa Bradley

FOR ACMEA:

Daniel P. King
Tom W. King
Mary W. King
Peggy E. Jones
John E. King
Cathy Niece President ACMEA

DATE: 3/11/09

**SIDELETTER OF AGREEMENT
BETWEEN THE
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT AND CONFIDENTIAL)
AND
THE COUNTY OF ALAMEDA**

SALARY REOPENER

March 11, 2009

The parties agree that if, during the negotiations for a successor MOU for SEIU in 2010 - 2011, SEIU receives an across the board wage increase, ACMEA (General Government and Confidential) may request to reopen the ACMEA MOU for the sole purpose of negotiating an across the board wage increase for employees represented by ACMEA.

FOR THE COUNTY:

Diana Douglas
Don
Mary Jo DeCoulade
Vanessa Bradley

DATE: 3-11-09

FOR ACMEA:

M. E. L.
Angela [unclear]
[unclear]
[unclear]
[unclear]
Carey Niece President ACMEA

**SIDELETTER OF AGREEMENT
BETWEEN THE
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT AND CONFIDENTIAL)
AND
THE COUNTY OF ALAMEDA**

VACATION SELLBACK

March 11, 2009

The parties agree to increase the yearly maximum allowable vacation sellback from fifteen (15) days to twenty (20) days for fiscal years 2009-2010 and 2010-2011. The yearly maximum allowable vacation sellback for ACMEA (General Government and Confidential) shall return to fifteen (15) days in fiscal year 2011-2012.

FOR THE COUNTY:

Diana Daughton
Sen
Mary Jo Delouche
Vanessa Bradley

FOR ACMEA:

Timothy P. [Signature]
W. [Signature]
[Signature]
Peggy E. [Signature]
[Signature]
Cathy Nee PRESIDENT ACMEA

DATE: 3/11/09

**SIDELETTER OF AGREEMENT
BETWEEN THE
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT AND CONFIDENTIAL)
AND
THE COUNTY OF ALAMEDA**

**TENTATIVE AGREEMENT TO COUNTY #14
\$15 MEDICAL CO-PAY EFFECTIVE 2009 PLAN YEAR**

October 7, 2008

Intent: To increase the office visit and prescription co-pay to \$15 for Representation Units R48, R53, and R61.

The County shall continue to use the lowest cost medical plan provider's rate as the basis for its contribution toward an employee's health plan.

In conjunction with the above, effective with the Health Plan year beginning February 1, 2009, office visit co-payments shall be \$15, prescription co-payments shall be up to \$15 generic; \$25 brand; and \$35 non-formulary drugs, and emergency room co-payments shall be up to \$50 for all health plans covered by Alameda County.

FOR THE COUNTY:

Diana Augusto
Deon
Mary Jo DeCoulade
Vanessa Bradley

DATE: 10-7-08

FOR ACMEA:

Michael
Carly Nace PRESIDENT ACMEA
George W. [unclear]
Jordan [unclear]
[unclear]
Beggy E. [unclear]
[unclear]

**SIDELETTER OF AGREEMENT
BETWEEN
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
GENERAL GOVERNMENT AND CONFIDENTIAL
AND THE
COUNTY OF ALAMEDA**

SALARY REVIEW

March 11, 2009

It is the intent of Alameda County to conduct a management initiated annual review of ACMEA represented employees' salaries in September of each year of the current Memorandum of Understanding, except in the last year of the Memorandum of Understanding, to address issues of compaction, recruitment and retention that may have occurred in the interim one-year period. The purpose of the annual review of salaries will be limited to making specific determinations as to what, if any, special adjustments may be merited at the time of the review.

Implementation of any recommendations arising from the review is subject to the approval of, and is to be made at the sole discretion of the Board of Supervisors. The Board of Supervisor's decision will be final, non-grievable and not subject to meet and confer requirements.

This provision shall remain in effect during the term of the December 29, 2008 through December 24, 2011 term of the Memorandum of Understanding.

FOR THE COUNTY:

Ricardo Daughtie
Deane
Mary Jo Delouche
Vanessa Brachley

FOR ACMEA:

Mr. Ehr
[Signature]
[Signature]
[Signature]
Cathy Nice PRESIDENT ACMEA

DATE: 3/11/09

**SIDELETTER OF AGREEMENT
BETWEEN
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT UNIT AND CONFIDENTIAL UNIT)
AND
THE COUNTY OF ALAMEDA**

WORD PROCESSING DIFFERENTIAL

November 15, 2001

The parties agree that within 90 days of adoption of the Memorandum of Understanding, ACMEA represented employees receiving the word processing differential under Salary Ordinance Section 3-21.8 and 3-21.23 shall choose one of the options listed below:

Option 1: Continue to receive the word processing differential at the specific dollar amount in effect on the above date as long as the employee continues to meet the eligibility criteria pursuant to Salary Ordinance Section 3-21.8 and 3-21.23 and remains in the same position; or

Option 2: Waive eligibility for the word processing differential pursuant to Salary Ordinance Section 3-21.8 and 3-21.23, and elect to receive a one-time lump sum payment of \$2,600.00 for those performing word processing duties as described in Salary Ordinance 3-21.8 and 3-21.23 footnote. Those who waive the eligibility for the training differential described in Salary Ordinance 3-21.8 and 3-21.23 will receive an additional one-time lump sum payment of \$2,600.00.

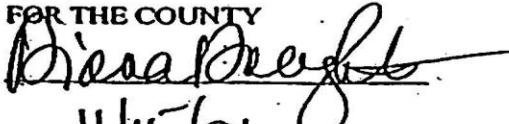
To qualify for Option 2, an eligible employee must submit a completed Waiver of Word Processing form to the Agency/Department Human Resources Office within 90 days of adoption of the MOU, and continue to meet the eligibility criteria at the time of payment (two pay periods after deadline to submit form). Employees who fail to submit a Waiver of Word Processing by the deadline will not be eligible for the one-time lump sum payment.

The parties further agree that effective 90 days after adoption of the MOU, the provisions of Salary Ordinance Section 3-21.8 and 3-21.23 will no longer apply to the following:

- Any employee newly hired, rehired or reinstated to County Service
- An employee who is promoted, demoted or transferred into a position where the employee is required to spend 25% or more performing the full range of word processing duties, including application of various commands, text editing techniques and text formatting.

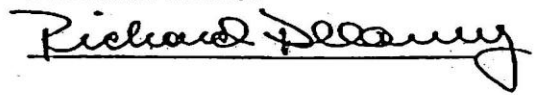
The provisions of Salary Ordinance Section 3-21.8 and 3-21.23 will not apply to employees who waived eligibility for the differential by accepting the one-time lump sum payment.

FOR THE COUNTY



11/15/01
DATE: Cynthia Baron

FOR THE UNION



**LETTER OF UNDERSTANDING BETWEEN
THE COUNTY OF ALAMEDA
AND
THE ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT UNIT AND CONFIDENTIAL UNIT)**

JULY 1997

INTENT:

The Alameda County Board of Supervisors and the Alameda County Management Employees Association, General Government Unit and Confidential Unit hereby agree to participate in the Alternative Child Care Assistance Program to address the specific need for alternative job-related child care for represented classification employees in the event of:

1. A child's illness which precludes the use of the employee's regular child care arrangement

Or

2. An unanticipated, temporary interruption of an employee's regular child care arrangement (e.g., the regular provider becomes sick or has an emergency).

The purpose of this program is to provide assistance in situations which would otherwise require expenditures over and above employee's regular child care costs. Non-emergency or routine care during a holiday is not reimbursable under this program.

This program will begin on July 1, 1997, and will continue each fiscal year, unless either party (County or ACMEA) requests to reopen the agreement on or before **May 1st** of the preceding fiscal year. The maximum County liability shall not exceed \$1,500.00 per fiscal year (FY), unless modified by agreement. Underutilization of any FY's budgeted amount will be returned to the County General Fund and not added to the next FY Alternative Assistance budget.

EMPLOYEE ELIGIBILITY:

To be eligible to participate in the program, an employee must:

1. Be in an ACMEA represented class;
2. Need job related child care for at least one child under 14 years of age;
3. Understand that the child care reimbursements will be reported as income to the IRS and State Franchise Tax Board.

REIMBURSEMENTS:

Eligible employees shall be:

1. Reimbursed on a first come, first serve basis to a maximum of \$350.00 per employee, per fiscal year.
2. Reimbursed 90% at a maximum of \$80.00 per day, not to exceed \$350.00 maximum per employee per fiscal year.

ENROLLMENT:

Eligible employees who request reimbursement must, in addition to establishing their eligibility as specified above:

1. Identify their regular and alternative child care arrangements, reimbursement for alternative child care services provided by a parent of the child, legal guardian of the child, or spouse or dependent of the employee will be denied.
2. Complete forms prepared by the Auditor-Controller's Office. Forms must include the supervisor's signature indicating that employee was at work on date alternative child care services were provided. The supervisor has no other responsibilities or authority in regards to approval or rejection of claims.
3. Submit completed forms on a monthly basis (not per claim), with a cancelled check or cash receipt for each claim, to the Auditor-Controller's Office, which shall be responsible for processing reimbursements to participants on a monthly basis.

CONTINUATION:

The County and ACMEA agree that the Alternative Child Care Assistance program shall continue on an annual basis as described in the Intent section of this agreement, unless either party requests to reopen the agreement on or before **May 1** of the preceding fiscal year.

Signed and entered into the 1st day of April, 1997.

For the County of Alameda:

For the Alameda County
Management Employees Association:

Deana Dougherty
Spouse of M.D.S.

Trine Jones

2001 MEMORANDUM OF UNDERSTANDING NEGOTIATIONS
ALAMEDA COUNTY MANAGEMENT EMPLOYEES ASSOCIATION
(GENERAL GOVERNMENT AND CONFIDENTIAL UNITS)
AND
COUNTY OF ALAMEDA

ALAMEDA COUNTY EMPLOYEE RETIREMENT ASSOCIATION
GENERAL MEMBERS

December 04, 2001

Assembly Bill 616 adopted by the State Legislature authorizes three service formula options to the 1937 Retirement Act Counties subject to approval of the Board of Supervisors.

The parties agree to hold informational discussions regarding alternative service retirement options during the term of this MOU. The parties agree that these informational discussions regarding retirement benefits are exploratory in nature and are not subject to the provisions, obligations or protections of the Meyers-Milias-Brown Act (MMBA) (Government Code Section 3500 et seq.). In the event there is no agreement to reopen negotiations to modify a current MOU, the current MOU will remain in full force and effect through and including its termination n date.

This does not constitute a commitment on the part of the County to grant any additional retirement benefits. However, the County agrees to explore funding options and possible implementation strategies during the term of agreement.

For the County

Diana Doughty
Cynthia Bacon

12/4/01
DATE

For ACMEA:

Richard Delaney
Linda K
OW Tong

ALAMEDA COUNTY BOARD OF SUPERVISORS

**** MINUTE ORDER ****

The following was action taken by the Board of Supervisors on May 12, 2009

Approved as Recommended Other

Read title, waived reading of ordinances in their entirety and adopted Ordinances O-2009-18; O-2009-19; and O-2009-20

Unanimous Carson Haggerty Miley Steele Lai-Bitker - 5
Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

- Ordinance(s) O-2009-18
- Ordinance(s) O-2009-19
- Ordinance(s) O-2009-20

File No. 24677
Item No. 23

Copies sent to:

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:
Crystal Hishida Graff, Clerk of the Board
Board of Supervisors

By: R. Bailey
Deputy

