



The County of El Dorado

Human Resources Department

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Board of Supervisors
330 Fair Lane
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Dear Board Members,

Operating Engineers Local No 3 representing employees in the Probation bargaining unit (Probation) and the County of El Dorado (County) have reached an impasse on contract negotiations. The parties began negotiations on or about June 8, 2007 and have actively participated in at least 15 collective bargaining sessions exchanging and discussing proposals and counter proposals. On or about the week of July 15, 2009 the members of the Probation bargaining unit conducted a ratification vote and did not ratify the Last, Best, and Final Offer by the County. On Wednesday, July 22, 2009 the representatives of the Operating Engineers Local No 3 Probation bargaining unit and the County of El Dorado met to go over the Last, Best, and Final Offer in regard to the successor Memorandum of Understanding (MOU). In accordance with Article IV of the Employer Employee Relations Resolution 10-83 (EERR) the County and the Union have met to identify and specify those issues where agreement does not exist.

The result of not obtaining a mutual agreement between the County and the bargaining unit is to move to the next step in the impasse process. The Probation unit requested mediation. In accordance with Article IV, Section 18.a, of the Employer Employee Relations Resolution 10-83 (EERR):

“If either party requests to submit the dispute to mediation, the dispute shall be submitted to mediation through the California State Mediation and Conciliation Services. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.”

The Probation unit and the County have met with a State mediator on two occasions July 22, 2009 and August 20, 2009 in further attempts to resolve the remaining differences between the parties. The result of not obtaining a mutual agreement between the County and the bargaining unit is to move to the next step in the impasse process once the mediation process has been exhausted. In accordance with Article IV, Section 18.b, of the Employer Employee Relations Resolution 10-83 (EERR):

“Board of Supervisors shall take such action regarding the impasse as it, in its discretion, deems appropriate as in the public interest. Any Legislative action by the Board of Supervisors on the impasse shall be final and binding.”

Recommendation

Staff recommends the Board follow the process under the Employer/Employee Relations Resolution 10-83 (EERR) Article IV, Section 18 (b) to adopt and impose the attached Resolution and the Modified Last, Best, and Final Offer (MLBFO) between the County and the Probation bargaining unit which contain the significant changes as previously approved in closed sessions. Please see the attached impasse process found in the EERR.

Reason for Recommendation:

The parties have negotiated in good faith over two years in an attempt to reach a mutually agreed upon successor MOU during these tough economic times. The parties recognize the economic hardship facing the County. However we were not able to reach a mutual agreement at this time. The result of not obtaining a mutual agreement between the County and the bargaining unit is to go through the impasse procedures provided under the Employer/Employee Relations Resolution 10-84 (EERR), as amended, Article IV, Section 17 and Section 18. The parties have met twice with a Mediator from State Mediation and Conciliation Service (SMCS) in an attempt to resolve differences and reach mutual agreement for a successor MOU. The parties were not able to reach agreement. The bargaining unit took the County Last Best and Final Offer to a vote of the members on or about July 15, 2009. The members of the Probation Bargaining unit did not vote to ratify the Last, Best, and Final Offer by the County. The impasse process with this bargaining unit was completed on or about August 20, 2009.

The Meyers-Milias-Brown Act, Government Code Section 3500 et. seq., that governs impasse proceedings between a county and the union along with the EERR. Government Code section 3505.4 states in part "...a public agency that is not required to proceed to interest arbitration may implement its last, best and final offer, but shall not implement a Memorandum of Understanding." (MOU)

The significant changes to this Operating Engineers Local No 3 Probation (PR) Modified Last, Best, and Final Offer are identified below:

- Elimination of retiree health insurance for all new hires effective the first full pay period following adoption by the Board of Supervisors is found on page 19 of the MLBFO. This elimination of retiree health insurance does not include those individuals who are the subject of a Reduction In Force (RIF) under Article 12 (Status on Restoration on page 33), commonly referred to as layoff.
- Article 7 Days and Hours of Work, Premiums & Bonuses, Section 2 Overtime, sub-section B Definition (page 8 of the MLBFO) wherein this bargaining unit will only be paid overtime for "Time Worked" over 40 hours in a work week, commonly referred to as the federal law for overtime known as the Fair Labor Standards Act or F.L.S.A.
- Article 18 titled Economic Hardship wherein the County may reopen negotiations with this bargaining under certain conditions (page 41).

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- Article 9 titled Employee Benefits and Retirement, specifically Medical Plan Options. The contribution levels for medical health care for current active employees for the 2009/2010 medical health plan year. There are three (3) different contribution levels for three (3) different health plans, one is the County health plan and two are for the OE3 Health Plan. Article 9, Section 1, beginning on page 13 of the Probation MLBFO.

Sincerely,

Allyn Bulzomi
Director of Human Resources

Cc: Gayle Erbe-Hamlin, CAO
Lou Green, County Counsel
Deborah Kal, Sr. Personnel Analyst

Attachments:

Attachment 1: Board Resolution to Adopt MLBFO

Attachment 2: Employer/Employee Relations Resolution 10-83

Article IV, Sections 17 & 18 (full EERR available for viewing outside of BOS chambers on day of adoption)

Attachment 3: Modified Last, Best, and Final Offer (MLBFO)