

# **MEMORANDUM OF UNDERSTANDING**

Between

The County of El Dorado

And

El Dorado County Deputy County  
Counsel Association

**July 1, 2014 - June 30, 2017**



**Memorandum of Understanding**  
**Table of Contents**

**PREAMBLE**..... 1

**ARTICLE 1. TERMS AND CONDITIONS OF EMPLOYMENT** ..... 1

    Section 1. Negotiations ..... 1

    Section 2. Meyers-Milias-Brown Act..... 1

    Section 3. Ratification ..... 1

    Section 4. Complete Understanding ..... 1

**ARTICLE 2. AUTHORIZED AGENTS AND RECOGNITION**..... 2

    Section 1. Authorized Agents ..... 2

    Section 2. Recognition ..... 2

**ARTICLE 3. COUNTY RIGHTS** ..... 2

**ARTICLE 4. ASSOCIATION RIGHTS**..... 3

    Section 1. Representation..... 3

    Section 2. Communications ..... 3

    Section 3. Release Time..... 4

    Section 4. Use Of County Buildings..... 4

**ARTICLE 5. SALARY AND OTHER RELATED ISSUES**..... 4

    Section 1. Salaries ..... 4

    Section 2. Classification Structure Study ..... 5

    Section 3. Salary Provisions Upon Restoration from Layoff ..... 5

**ARTICLE 6. HOLIDAYS**..... 5

    Section 1. Designated Holidays ..... 5

    Section 2. Day Observed..... 6

    Section 3. Compensation For Holidays ..... 6

    Section 4. Limitations ..... 7

**ARTICLE 7. VACATION**..... 7

    Section 1. Accrual Rates And Maximum Accumulation ..... 7

    Section 2. Provisions..... 8

    Section 3. Vacation Scheduling ..... 8

    Section 4. Donation Of Vacation ..... 8

**ARTICLE 8. SICK LEAVE**..... 10

    Section 1. Accrual ..... 10

Section 2. Eligibility .....	10
Section 3. Administration Of Sick Leave .....	10
Section 4. Incapacity To Perform Duties .....	12
Section 5. Fitness For Duty Examination .....	12
Section 6. Payment For Unused Sick Leave .....	12
Section 7. Payment For Unused Sick Leave At Retirement .....	12
Section 8. Retirees' Conversion Of Sick Leave To Health Insurance .....	12
<b>ARTICLE 9. LEAVES .....</b>	<b>13</b>
Section 1. Management Leave .....	13
Section 2. Jury Duty .....	13
Section 3. Court Appearances .....	13
Section 4. Leaves Of Absence With Pay .....	14
Section 5. Workers' Compensation Follow-Up Doctor Visits .....	14
Section 6. Leave Of Absence Without Pay .....	14
<b>ARTICLE 10. SPECIAL PAYS .....</b>	<b>15</b>
Section 1. Longevity Pay .....	15
Section 2. Bilingual Differential .....	15
Section 3. Tahoe Employment Differential .....	16
Section 4. Mileage Reimbursement .....	16
Section 5. Acting Pay Assignments .....	16
Section 6. Deferred Compensation .....	17
Section 7. Bar Dues Reimbursement .....	18
Section 8. MCLE And Professional Dues Reimbursement .....	18
<b>ARTICLE 11. RETIREMENT .....</b>	<b>18</b>
Section 1. CalPERS Retirement Plans .....	18
Section 2. CalPERS Contribution .....	18
Section 3. Survivors Benefits .....	19
<b>ARTICLE 12. INSURANCE .....</b>	<b>19</b>
Section 1. Medical, Dental, & Vision Plan .....	19
Section 2. Optional Benefit Plan .....	21
Section 3. Employee Assistance Plan .....	22
Section 4. Retiree Health Insurance .....	22
Section 5. Life Insurance .....	23

Section 6. Plan Documents Or Contracts Controlling .....	23
<b>ARTICLE 13. HOURS &amp; WORK SCHEDULES.....</b>	<b>24</b>
Section 1. Work Schedules .....	24
Section 2. Overtime .....	24
<b>ARTICLE 14. PROBATION.....</b>	<b>24</b>
<b>ARTICLE 15. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE .....</b>	<b>24</b>
Section 1. Policy .....	25
Section 2. Procedure For Permanent Layoffs.....	25
Section 3. Order Of Layoffs .....	26
Section 4. Layoff Privileges .....	27
Section 5. Appeal Of Layoff .....	29
<b>ARTICLE 16. DISCIPLINARY APPEALS.....</b>	<b>32</b>
<b>ARTICLE 17. GRIEVANCE PROCEDURE.....</b>	<b>32</b>
Section 1. Intent.....	32
Section 2. Informal Discussion.....	32
Section 3. Scope Of Grievances .....	32
Section 4. Definitions .....	33
Section 5. Grievance Procedure .....	33
Section 6. Arbitration.....	34
Section 7. Basic Rules.....	35
<b>ARTICLE 18. RENEGOTIATIONS .....</b>	<b>35</b>
Section 1. Successor Agreement .....	35
Section 2. Notification Of Representative .....	36
Section 3. Negotiations During Work Hours .....	36
<b>ARTICLE 19. PEACEFUL PERFORMANCE .....</b>	<b>36</b>
Section 1. Job Actions – Sick-Outs.....	37
<b>ARTICLE 20. FULL UNDERSTANDING, MODIFICATION, WAIVER .....</b>	<b>38</b>
<b>ARTICLE 21. SEVERABILITY .....</b>	<b>38</b>
<b>ARTICLE 22. ECONOMIC HARDSHIP .....</b>	<b>38</b>
<b>ARTICLE 23. DRUG FREE WORK PLACE .....</b>	<b>38</b>

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE COUNTY OF EL DORADO  
AND  
THE EL DORADO COUNTY DEPUTY COUNTY COUNSEL**

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**PREAMBLE**

It is the purpose of this Memorandum of Understanding to set forth the wages, hours and other terms and conditions of employment for the employees of the County of El Dorado represented by El Dorado County Deputy County Counsel Association (hereinafter referred to as "EDCDCCA" or "Association").

**ARTICLE 1. TERMS AND CONDITIONS OF EMPLOYMENT**

**Section 1. Negotiations**

EDCDCCA and representatives of the County of El Dorado (hereinafter referred to as "County") have met and conferred in good faith in regard to wages, hours and other terms and conditions of employment covering employees in the Association bargaining unit have exchanged freely information, opinions and proposals and have reached agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

**Section 2. Meyers-Milias-Brown Act**

This Memorandum of Understanding (MOU) is entered into pursuant to the Meyers-Milias-Brown Act (Government Code §§3500-3510) and has been jointly prepared by the parties.

**Section 3. Ratification**

This MOU shall be presented by the Association to the employees in the Association for ratification by said employees, and shall thereafter be presented to the Board of Supervisors, as the joint recommendation of the undersigned for salary and benefits adjustments for the period from July 1, 2014 through June 30, 2017. All provisions shall become effective upon final approval by the Board of Supervisors, unless otherwise indicated herein.

**Section 4. Complete Understanding**

This MOU cancels all previous MOUs and letters of agreement. El Dorado County Personnel Rules, and all other County policies and rules shall remain in force and effect

other than where superseded by specific provisions of this MOU.

## **ARTICLE 2. AUTHORIZED AGENTS AND RECOGNITION**

### **Section 1. Authorized Agents**

For the purpose of administering the terms and provisions of this MOU, the following authorized agents have been designated:

County of El Dorado  
Director of Human Resources  
330 Fair Lane  
Placerville CA 95667

El Dorado County Deputy County Counsel Association  
David Livingston, President  
330 Fair Lane  
Placerville CA 95667

The Association shall provide in writing to the County and be responsible for keeping current the name, address and telephone number of the designated representative and a list of persons authorized to act on its behalf or receive service in its name.

### **Section 2. Recognition**

- A. County recognition - The Director of Human Resources or designee is the representative of County of El Dorado in matters related to employer-employee relations.
- B. The Association is the exclusively recognized employee organization for the El Dorado County Deputy County Counsel Bargaining Unit.

## **ARTICLE 3. COUNTY RIGHTS**

County retains, solely and exclusively, all the rights, powers and authority exercised or held prior to the execution of this MOU, except as expressly limited by a specific provision of this MOU. Without limiting the generality of the foregoing, the rights, powers, and authority retained solely and exclusively by County and not abridged herein, are included, but not limited to the following; to manage and direct its business and personnel; to manage, control and determine the mission of its departments, building facilities, and operations; to create, change, combine or abolish jobs, departments and facilities in whole or in part; to direct the work force; to increase or decrease the work force and determine the number of employees needed; to hire, transfer, promote and maintain the discipline and efficiency of its

employees; to establish work standards, schedules of operation and reasonable work load; to specify or assign work requirements and require additional work hours; to schedule working hours and shifts; to adopt rules of conduct; to determine the type and scope of work to be performed by County employees and the services to be provided; to classify positions, to establish initial salaries of new classifications; to determine the methods, processes, means, and places of providing services and to take whatever action necessary to prepare for and operate in an emergency.

Nothing in this Article is intended to alter the post-agreement rights of the respective parties as established by law to meet and confer on changes which would affect the wages, hours and other terms and condition of employment, except, however that the scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order.

The County reserves the right to contract out services pursuant to the El Dorado County Charter. In the event that the County is considering contracting out services, which will directly result in the layoff of current employees, the County will notify the Association and meet and confer prior to the implementation of the action to the extent required by law.

## **ARTICLE 4. ASSOCIATION RIGHTS**

### **Section 1. Representation**

This MOU covers the employees in the position classifications of the County that the Association is certified as representing, and the Association is the formally recognized employee organization that has the exclusive right to represent said employees during the term of this MOU.

### **Section 2. Communications**

Official Association representatives shall be permitted access to County property to confer with County employees on matters of employer-employee relations. The designated representative shall give notice to the Department Head or designee when contacting departmental employees during the duty period of employees, provided that solicitation for membership or other internal employee organization business shall be conducted only during the non-duty hours of all employees concerned. Non-duty hours are defined as before or after work, lunch periods and rest break periods.

The Association may use the Department electronic mail (e-mail) for Association business under the following conditions:

- A. E-mails shall not be drafted during working hours (not including duty-free breaks and lunches);

- B. The subject line of the email shall read "EDCDCCA Information." E-mails shall not contain personal attacks on any County official or employee, any material that constitutes harassment, discrimination or retaliation based on a legally protected status, as well as any pornographic or obscene material.
- C. Subject matter shall be limited to brief Association announcements, inquiries, notices, agendas, minutes, and appropriate attachments.
- D. All email usage shall be consistent with Departmental policy, the El Dorado County Computer and Network Resource Usage Policies and Standards Guide, and the provisions of this MOU.

### **Section 3. Release Time**

Official Association representatives shall be released from duty during the grievance procedure or when meeting with County representatives. The Association shall notify the Director of Human Resources or designee of the names of employees who are official representatives of the Association, not more than three (3) of whom can be released at any given time.

### **Section 4. Use Of County Buildings**

County Buildings and other facilities shall be made available for use of the Association or its representatives during non-duty hours in accordance with availability and administrative procedures as may be established by the Chief Administrative Officer or Human Resources Director or designee.

## **ARTICLE 5. SALARY AND OTHER RELATED ISSUES**

### **Section 1. Salaries**

The increase base wages for all Association represented classifications will be increased by 15% during the term of the MOU as follows:

#### **Cost of Living Adjustments**

2014: 2% effective the pay period including July 1, 2014 or the first full pay period following Association ratification and Board of Supervisors adoption of the MOU, whichever occurs later.

2015: 2% effective the pay period including July 1, 2015.

2016: 2% effective the pay period including July 1, 2016.



## Equity Adjustments

2014: 3% effective the pay period including July 1, 2014 or the first full pay period following Association ratification and Board of Supervisors adoption of the MOU, whichever occurs later.

2015: 3% effective the pay period including July 1, 2015.

2016: 3% effective the pay period including July 1, 2016.

## **Section 2. Classification Structure Study**

The County will initiate a classification structure study during the term of the MOU. After the study is complete, the County will present any negotiable changes to the County's classification structure to the Association. The County and the Association agree to meet and confer over the negotiable changes, if any, to the classification structure.

## **Section 3. Salary Provisions Upon Restoration from Layoff**

A regular employee who has been laid off or voluntarily demoted as a result of layoff and is subsequently restored in their former classification within a two (2) year period from the date of his/her layoff or voluntary demotion shall receive the following considerations and benefits:

- A. All sick leave credited to the employee's account when laid off shall be restored, unless the employee received compensation for such sick leave at the time of the layoff.
- B. All prior service shall be credited for the purpose of determining sick leave and vacation earning rate, longevity pay increases and time in step.
- C. The employee shall be placed on the step of the salary range that was held at the time of the layoff.

## **ARTICLE 6. HOLIDAYS**

### **Section 1. Designated Holidays**

The County shall designate specific days as County holidays. Paid holidays, for all categories listed below, shall be authorized for only regular full-time and part-time employees and limited term extra help employees.

The following days shall be the official County holidays:

- January 1 - New Year's Day
- January (Third Monday) - Martin Luther King Jr.'s Birthday
- February (Third Monday) - Washington's Birthday
- May (Last Monday) - Memorial Day
- July 4 - Independence Day
- September (First Monday) - Labor Day
- November 11 - Veterans Day
- November - Thanksgiving Day
- November - Friday after Thanksgiving
- December 24 - Christmas Eve \*(When Christmas Day falls on a Thursday, the day after Christmas shall be observed as a holiday in lieu of Christmas Eve).
- December 25 - Christmas Day

A. Other Declared Holidays - In addition, upon concurrence by the County Board of Supervisors, every day appointed by the President or Governor for a public fast, Thanksgiving, or holiday shall also be considered as a holiday for purposes herein.

B. Floating Holidays- In lieu of Lincoln's Birthday and Columbus Day, regular employees shall be entitled up to sixteen (16) hours of floating holiday time. This time will be credited in pay period 01 of each year. Floating holidays shall be taken at a time agreeable to both the employee and the appointing authority. Part-time employees shall receive this holiday time on a prorated basis.

Lincoln's Birthday and Columbus Day will not be considered holidays for payroll purposes. Floating holiday time must be used by the last day of pay period 26 of each year and is not subject to the payoff provisions. Any unused floating holiday time will be lost.

### **Section 2. Day Observed**

If a holiday falls on a Sunday, the following Monday shall be observed as the holiday in lieu thereof. If a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday in lieu thereof.

All regular full-time employees, regular part-time employees and limited term extra help employees who are on an irregular work week schedule shall be entitled to the same number of paid holiday hours as those employees on a regular work week schedule. If an employee works a non-standard (rather than Monday through Friday) work schedule, their first day off shall be treated as if it was a Saturday and their second day off as if it was a Sunday.

### **Section 3. Compensation For Holidays**

Regular full-time employees, regular part-time employees and limited term extra help

employees shall receive holiday pay for all authorized holidays at their current hourly rate, not to exceed eight (8) hours for any one (1) day, provided they are in a pay status for the full day on both their regularly scheduled work days immediately preceding and following the holiday. Regular, part-time employees and limited term extra help employees shall be entitled to receive holiday pay in proportion to the percentage of full-time hours worked during the biweekly pay period that includes a holiday. The Department Head or designee may approve holiday pay when an employee has insufficient sick leave accruals as required to maintain paid status for the full day immediately preceding and following the holiday, provided the employee will use at least twelve (12) hours of sick leave or the maximum number of hours required in the coordination of SDI during the pay period that includes the holiday.

#### **Section 4. Limitations**

The following provisions as to administration of holidays shall apply to all regular full-time employees, regular part-time employees and limited term extra help employees:

- A. A new employee whose first working day is the day after a paid holiday shall not be paid for that holiday.
- B. An employee who is terminating his/her employment and whose last day as a paid employee is the day before a holiday, shall not be entitled to holiday pay for that holiday.

### **ARTICLE 7. VACATION**

For purposes of this section, one year shall be equivalent to twenty-six (26) biweekly pay periods of continuous service.

#### **Section 1. Accrual Rates And Maximum Accumulation**

Every regular full-time employee, regular part-time employee and limited term extra help employee shall accrue and accumulate vacation leave with pay as follows:

- A. Employees with less than four years continuous service shall accrue vacation credit at the rate of .03875 an hour for each full hour in pay status. (Equal to 3.1 hours for full-time in a full pay period.) In no case shall an employee with less than four years continuous service accumulate more than 240 hours vacation leave.
- B. Employees with over four years of continuous service shall accrue vacation credit at the rate of .05875 hour for each full hour in pay status. (Equal to 4.7 hours for full-time in a pay period.) In no case shall an employee with more than four years

of continuous service accumulate more than 320 hours of vacation leave.

- C. Employees with over eleven years of continuous service shall accrue vacation credit at the rate of .07750 hour for each full hour in pay status. (Equal to 6.2 hours per full-time in a pay period.) In no case shall an employee with more than eleven years of continuous service accumulate more than 320 hours of vacation leave.

## **Section 2. Provisions**

Vacation leave shall be accrued from each eligible full-time or part-time employee's date of hire. Employees shall be entitled to use accrued vacation leave upon completion of two (2) full pay periods of continuous service. When an employee accumulates the maximum number of hours set forth above, he or she shall cease accumulating vacation until such time as the employee has utilized vacation hours to bring the total hours below the maximum stated. Upon termination of an employee's employment for any cause, the employee shall be paid for any unused vacation hours accumulated, up to the maximum amount permitted to be accumulated. No employee in this bargaining unit shall receive any payment in lieu of vacation while remaining a County employee.

## **Section 3. Vacation Scheduling**

It is the policy of the County that employees take their vacation each year; provided, however, that for reasons deemed sufficient by the Department Head, an employee may take less than the normal vacation accrued that year. All vacations shall be taken at such times during the calendar year as may be approved by the Department Head.

In the event an employee is not permitted to take all of the vacation to which he or she is entitled in a calendar year, the employee shall be permitted to accumulate the unused portion to the employee's credit, provided that the employee shall not have a total vacation credit of more than the maximum allowed herein.

All requests for vacation must be approved by the employee's Department Head or designee; the Department Head or designee is responsible for insuring that the employee is eligible for the vacation requested. No person shall be allowed vacation in excess of that actually accrued at the time such vacation is taken. It shall be the responsibility of the Department Head or designee to require vacation leave is taken in order to avoid excessive accumulation or forfeiture.

## **Section 4. Donation Of Vacation**

Catastrophic leave donation is designed to allow employees to donate vacation leave to their coworkers in times of exceptional need. Justifications for such transfers may include a catastrophic medical condition, injury or incapacitation of the employee or member of the employee's immediate family (child, spouse, domestic partner, parent or person for whom the employee has been designated as legal guardian).

- A. To be eligible for this benefit, an employee must have been employed by the County for one (1) continuous year and worked no less than 1,250 hours over the immediate preceding twelve (12) months. In addition, this leave may not be used for more than twelve (12) weeks in any twelve (12) month period.
- B. The employee requesting leave donations (requestor) must first exhaust all other forms of accrued paid leave.
- C. Contributions will cease if/when the catastrophic occurrence is resolved, or when twelve weeks from the first transfer has passed.
- D. The amount of donated time paid to the requestor will be reported as taxable income.
- E. Hours donated will not qualify the employee for hours worked to as it relates to holiday pay, on-call duty compensation, Tahoe employment differential, bilingual differential, overtime or time in class.

## PROCEDURE

- A. The requestor must provide a signed written request for donations of vacation leave to the requestor's supervisor. Additionally, a statement from a health professional verifying an injury or incapacity likely to last for at least one (1) month must be forwarded to the supervisor before any action will be taken. The supervisor will forward the written request and verification to Human Resources.
- B. An employee's supervisor may take the initiative to request leave donations for an eligible employee. The recipient must consent, and all necessary documentation must be provided.
- C. Human Resources will ensure the requestor is eligible to receive catastrophic leave donations. Upon approval, Human Resources will post a notice on EDCnet advising employees of a request for donations. No additional notices will be sent.
- D. An employee wishing to donate vacation (contributor) will complete and submit to Human Resources a Catastrophic Leave – Vacation Donation form indicating the number of vacation hours to be donated. The contributor must have at least forty

(40) hours of vacation hours remaining after the donation. Once submitted, transfers of leave may not be revoked by the contributor. The requestor will not be made aware of who has donated leave.

- E. Donations will be made in one hour increments. Employees may donate up to an annual maximum donation of sixteen (16) hours to any one employee. All donations will be deducted from the contributor's balance and held in queue until such time as they are needed by the requestor. Donated hours will be drawn on by the requestor, as the need arises, from the pool of donated hours on an hour for hour basis. All unused pledges remaining in the pool may be credited back to the original contributors on a last donated, last used basis.

Donations will be charged to the requesting employees department at the rate paid to the requesting employee.

## **ARTICLE 8. SICK LEAVE**

### **Section 1. Accrual**

Regular full-time, regular part-time employees and limited term extra help employees shall accrue sick leave at the rate of .04625 per hour in pay status, calculated on the basis of actual service (3.7 hours earned per full pay period paid).

### **Section 2. Eligibility**

Employees shall not be entitled to use accrued sick leave with pay until the employee has two (2) full bi-weekly pay periods of continuous service with the County.

### **Section 3. Administration Of Sick Leave**

Each Department Head is charged with the responsibility of administering sick leave within the department consistent with applicable practices and policies adopted by the County.

Employees are required to notify their supervisor as soon as possible of their absence due to illness or injury. A department, depending on its internal record keeping, may require an employee upon returning after an absence due to illness or injury, to fill-out a sick leave request form or record of sick leave use.

- A. Departments may request information in order to aid in the determination of whether the sick leave use is legitimate. A Department Head or designee may require a physician's statement or acceptable substitute from an employee who

applies for sick leave, or makes whatever reasonable investigation into the circumstances that appears warranted before taking action on a sick leave request.

- B. Departments may require a prescribed affidavit or medical report form. When an employee is absent for longer than ten (10) consecutive working days, the employee may be required to submit a statement from the employee's physician releasing the employee for normal duty.
- C. Sick leave abuse is defined as follows:
  - 1. If an employee who has taken sick leave is suspected of sick leave abuse, the Department may institute an investigation. Based on the results of that investigation, appropriate action will be taken.
  - 2. The County may request that the employee provide a physician's statement as authorized by law or acceptable substitute during an absence if the employee receives notice prior to returning and the absence is longer than three (3) days. However, if an employee has a record of excessive sick leave use, or if the employee's leave use is suspect, the County may require a physician's letter or other acceptable substitute before authorizing future sick leave usage. Examples of excessive sick leave usage might include but are not limited to:
    - a) Documented abuse, or;
    - b) In excess of six individual unapproved uses of sick leave in a twelve (12) month period, or;
    - c) More than four (4) uses of sick leave in conjunction with vacation and/or holidays in a twelve (12) month period.

Each use of sick leave may last one or more days. Each day of a multi-day sick leave absence does not constitute its own individual use of leave.

It is important to note that use of leave identified under paragraphs "b" and or "c" above does not automatically indicate abuse. There may be legitimate reasons why an employee is using leave under these circumstances. The primary goal of identifying leave use thresholds is to initiate communication between the County and the employee to determine why an employee is using so much sick leave and determine if the leave is being abused.

- D. When an employee has been determined to have used sick leave for illegitimate purposes, the County may recover such funds.
- E. Each Department Head or designee shall maintain complete and current records of

sick leave and vacation time accumulated and taken by each employee.

Protected leave cannot be tracked for performance evaluation and/or disciplinary reasons unless an employee is using protected leave in an unlawful manner.

#### **Section 4. Incapacity To Perform Duties**

If the appointing authority has reasonable cause to believe that an employee is not capable of properly performing the duties of the position, the appointing authority may require the employee to excuse himself/herself from work until the incapacity is remedied. During such absence the employee may utilize any appropriate accumulated paid leaves.

#### **Section 5. Fitness For Duty Examination**

An appointing authority that has reasonable cause to believe that an employee is not capable of properly performing the duties of the position may require an employee to submit to a fitness-for-duty examination.

#### **Section 6. Payment For Unused Sick Leave**

In order to receive payment for unused sick leave at the time of lay off or voluntary separation, an employee must have five or more years of County service.

A. Employees shall be entitled to receive a payoff of their unused sick leave up to a maximum of 504 hours. Payment shall be made at the employee's last hourly rate of pay.

B. In the event an employee dies while in active service with the County, their sick leave pay off will be made in accordance with these provisions.

#### **Section 7. Payment For Unused Sick Leave At Retirement**

At the time of retirement, a member with five (5) or more years of County service may elect to receive a payoff of their unused sick leave up to a maximum of 504 hours. Payment shall be made at the employee's last hourly rate of pay.

#### **Section 8. Retirees' Conversion Of Sick Leave To Health Insurance**

An employee who is retiring under the CalPERS system may, at the employee's option, in lieu of Section 7, Payment for Unused Sick Leave at Retirement (above), receive the equivalent value of that benefit in paid health plan premiums. Employees shall be responsible for whatever taxes are appropriate for this benefit.



## **ARTICLE 9. LEAVES**

### **Section 1. Management Leave**

Regular and limited term extra help employees shall receive eighty (80) hours of management leave in pay period 01 of each year.

A. Part time and limited term extra help employees shall receive a prorated share of management leave based upon their ongoing work schedule.

B. Employees hired after July 1 of each year shall receive half of designated entitlement of management leave. Part time and limited term extra help employees shall receive a prorated share of management leave based upon their ongoing work schedule.

Payment for any unused management leave may be requested in writing by the employee only during the pay periods that include March 31, June 15, September 30, and the last pay period of each year, in eight (8) hour increments, with appropriate notification to the Auditor-Controller's Department. Any eligible employee who does not use the full entitlement of management leave by pay period twenty-six (26) of each year may be paid at the base hourly rate for any remaining unused management leave. Any unused hours remaining over the maximum allowable will be lost. Such leave will not be carried over from one year to another.

### **Section 2. Jury Duty**

An employee who is summoned for attendance to any court for Jury Duty during his/her normal working hours shall be deemed to be on duty and there shall be no loss in salary, but any jury fees received shall be paid forthwith to the Auditor-Controller to be deposited in the General Fund of the County, together with any mileage allowed if he/she shall use County transportation. Employees released from Jury Duty during their normal duty hours shall report back to their departments. Employees scheduled to work the evening or late night shift and who serve four (4) or more hours on jury duty will not be required to report for duty on the evening or late night shift and shall be deemed to be on duty, and there shall be no loss in salary, but any fees received shall be paid forthwith to the Auditor-Controller to be deposited in the General Fund of the County.

### **Section 3. Court Appearances**

A. On Duty Time- An employee who is called as a witness arising out of and in the

course of the employee's County employment or prior employment with another governmental agency shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him/her shall be paid forthwith to the County Auditor-Controller to be deposited in the General Fund of the County, together with any mileage allowed if he/she shall use County transportation. Employees released from witness duty during their normal duty hours shall report back to their department.

B. Off Duty Time – An employee who is called as a witness arising out of and in the course of the employee's County employment during the employee's off duty hours may be allowed to arrange their schedule, with Department Head approval, so as to allow them to take time off within the same pay period in an amount of time equal to that time spent serving as a witness.

C. Private Litigation- An employee who is called as a witness in a private or civil matter unconnected with the course of their employment shall not be compensated by the County, excepting upon the approval of the Department Head, earned vacation or compensating time off may be utilized. It is the employee's responsibility to make arrangements for payment from the involved parties in accordance with the California Code of Civil Procedures for witnesses.

#### **Section 4. Leaves Of Absence With Pay**

The appointing authority, with the approval of the Chief Administrative Officer, may place an employee on leave of absence with pay (suspended with pay) as defined in the Personnel Rule 1408.

#### **Section 5. Workers' Compensation Follow-Up Doctor Visits**

Employees who return to work and are receiving Workers' Compensation benefits and have follow-up doctor appointments related to their Workers' Compensation injury/illness may use County paid time for these doctor visits. Eligibility for use of County paid time for these doctor visits is limited to 48 hours.

#### **Section 6. Leave Of Absence Without Pay**

Employees who are granted a leave of absence without pay shall have the option to exhaust any accumulated vacation time or to leave such vacation time in their accumulated account. Employees requesting a leave of absence due to illness or disability may use any accumulated sick leave prior to the requested beginning date of such leave.

Employees on leave of absence without pay due to illness or injury for a period of ten

(10) days or more may be required by their Department Head to present a statement by the employee's physician releasing the employee for normal duty prior to returning to work. Authorized leave without pay shall not extend an employee's date of eligibility for longevity pay increases and vacation accrual rates. An employee's eligibility for merit salary step increase shall be extended commensurately for each full pay period an employee is on authorized leave without pay except as provided by law.

## **ARTICLE 10. SPECIAL PAYS**

### **Section 1. Longevity Pay**

A regular full-time or part-time employee shall, for all hours in pay status, be paid longevity pay for continuous service with the County as follows:

10 years 5.0% of base salary

After 15 years 10.0% of base salary\*

After 20 years 13.0% of base salary\*

After 25 years 15.0% of base salary\*

After 30 years 16.0% of base salary\*

\*Represents total amount of longevity granted; amount shown is not cumulative.

Longevity pay increases shall be based upon continuous service with the County in unallocated position and shall be effective on the first day of the biweekly pay period following completion of the required period of service.

### **Section 2. Bilingual Differential**

When a Department Head designates in writing that an employee must utilize bilingual skills as a required component of the employee's job duties and necessary in the delivery of County services, the employee will be paid a bilingual differential of one dollar (\$1.00) per hour for all hours in pay status. The bilingual differential shall be paid for bilingual proficiency in Spanish, Sign Language, or any language determined by the Department Head or designee in writing as necessary to provide primary services to the public. In order to be eligible to receive such differential an employee must demonstrate language proficiency acceptable to the Department Head or designee. The County shall adopt a language proficiency testing process to determine employees' qualification to serve as bilingual skill providers. The Human Resources Department shall use a verbal and/or written testing process, depending upon the level of

bilingual skill required of the employee, to validate the employee's skills. The County shall utilize existing bilingual employees to assess employees' bilingual capabilities when possible. Written authorizations to receive a bilingual differential shall be reviewed and renewed annually by the Department Head or designee. This differential shall only apply when an eligible employee is in paid status for a majority of their assigned hours in a pay period.

### **Section 3. Tahoe Employment Differential**

Employees whose primary work location is in the Tahoe Basin shall receive a total of ninety-two dollars and thirty cents (\$92.30) bi-weekly; part-time employees shall receive a bi-weekly total of forty-six dollars and fifteen cents (\$46.15). This differential shall only apply when an eligible employee is in paid status for a majority of their assigned hours in a pay period.

### **Section 4. Mileage Reimbursement**

Any and all mileage reimbursements shall be in compliance with Board of Supervisor Policy D-1.

### **Section 5. Acting Pay Assignments**

A. When an employee is assigned to work in a higher classification for which the compensation is greater than the classification to which the employee is regularly assigned, and the employee works in such assignment for more than fifteen (15) consecutive work days, the employee shall receive compensation for such work retroactive to the first day of the assignment at the rate of pay established for the higher classification, under the following conditions;

1. The employee is assigned to a program, service or activity established by the Board of Supervisors that is reflected in an authorized position which has been classified and assigned to the Salary Schedule and listed in the County's Authorized Personnel Allocation Resolution, and such authorized position has become vacant due to the temporary or permanent absence of the position's incumbent. A copy of the Department Head's written approval of this assignment must be submitted to the Director of Human Resources or designee at the start of the assignment.
2. The nature of the departmental assignment is such that the employee in the lower classification becomes fully responsible for the duties of the position of the higher classification.

B. Notwithstanding (A.1) above, in an exceptional circumstance when a vacancy does not exist but an employee has been assigned to perform duties that exceed the scope of that employee's classification, and when determined and justified by the Human Resources Director or designee in his/her sole discretion, an employee will be entitled to pay for a higher classification, which shall not be less than five percent (5%) of the employee's base salary.

C. Employees selected for the assignment will meet the minimum qualifications for the higher classification. If the employee does not, the Department Head, prior to assigning the employee to the acting position, must provide justification for such selection to Human Resources for approval.

D. Pay for work in a higher classification shall not be utilized as a substitute for regular promotional procedures provided in this MOU.

E. Higher pay assignments shall not exceed six (6) months except through reauthorization by the Human Resources Director or designee.

F. If approval is granted for pay for work in a higher classification and the assignment is terminated and later reapproved for the same employee within thirty (30) days, no additional waiting period will be required.

G. Allowable work location differentials will be paid on the basis of the rate of pay for the higher class.

H. Employees who are members of the Association and are given an acting pay assignment in a classification in another bargaining unit will continue to have all pay and benefits determined by this Agreement.

## **Section 6. Deferred Compensation**

A. Deferred Compensation Matching Contribution -The County will make a dollar for dollar matching contribution to deferred compensation (457 Plan) accounts on behalf of participating regular full time employees in the amount not to exceed \$400 of the annual contribution by the regular full time employee during the prior calendar year.

Deferred Compensation Contribution-The County will provide 2.5% of base salary in each pay period to deferred compensation for regular full time employees who have ten (10) or more years of County service.

C. Contributions at Separation – An eligible employee who separates from employment with the County prior to the County making its contribution in January of

each year shall receive a commensurate contribution to the employee's deferred compensation account based upon contributions made up to the date of separation and in accordance with the provisions set forth in this section.

### **Section 7. Bar Dues Reimbursement**

The County shall pay the annual California State Bar dues for full-time regular and full-time limited term extra help employees. The County will reimburse part-time regular and part-time limited term extra help employees for a pro rata portion of their California State Bar dues based on their scheduled hours of work. Other extra help employees will not be reimbursed for any portion of the California State Bar dues.

### **Section 8. MCLE And Professional Dues Reimbursement**

The County shall pay for approved Mandatory Continuing Legal Education (MCLE) requirements for full-time regular and full-time limited term extra help employees. For the purposes of this section "approved" shall mean prior approval by the Department Head. If any travel and/or lodging are associated with MCLE requirements then said travel, lodging, and meals shall be reimbursed in accordance with Board of Supervisors Travel Policy D-1.

## **ARTICLE 11. RETIREMENT**

### **Section 1. CalPERS Retirement Plans**

A. Retirement benefits for employees hired prior to October 5, 2012 shall be calculated using the retirement formula of two percent (2%) @ 55 with Single-Highest Year Final Compensation (Tier 1).

Retirement benefits for employees hired on or after October 5, 2012 shall be calculated using the retirement formula of two percent (2%) @ 60, with Average of Three-Year Final Compensation (Tier 2).

Effective January 1, 2013, new members to the CalPERS system shall have retirement benefits calculated using the retirement formula of two percent (2%) at age 62, with Average of Three-Year Final Compensation (Tier 3). The County shall endeavor to comply with the PEPRA pension reform statute.

### **Section 2. CalPERS Contribution**

Employees in Tier 1 and Tier 2 shall pay the seven percent (7%) employee portion of the CalPERS contribution.

Each employee subject to Tier 3 will pay fifty percent (50%) of the employee's normal pension.

### **Section 3. Survivors Benefits**

The County will provide members Level III tier of the 1959 Survivors Benefits for employees. Each employee shall contribute ninety-three cents (\$.93) per pay period plus any additional employee contribution required by CalPERS regulations.

## **ARTICLE 12. INSURANCE**

### **Section 1. Medical, Dental, & Vision Plan**

A. A mutual goal of the County and the Association is to limit and manage the impacts of health plan costs on both County employees and the County's Budget.

1. The County and the Association agree to continue, during the terms of the MOU, to meet and work on long term options for payment of health care costs. For the term of this MOU, the parties agree to implement a standardized cost sharing for health insurance contribution rates, with the County paying 65% of the premium for full-time employees and the employee paying 35% of the premium. Annually, in the event of a rate increase, the rate increase shall be allocated based on the current contribution rate of 65% County and 35% employee paid.

2. Health care coverage is based on a calendar year (January 1 – December 31). Rates for the ensuing calendar year for EDCDCCA shall be effective upon approval of the Board of Supervisors, but no earlier than the pay period containing December 1. Beginning with the 2014 plan year, premiums for health insurance plans will be unblended.

Effective the pay period containing December 1, the contributions shall be as per the health plan published rates.

3. For part-time employees hired on or after September 7, 1991, the County will contribute a prorated share of the costs listed as specified in Article 12, Section 2.F. The sum of the County and employee contribution shall constitute full payment, excluding deductibles, co-payments and other fees and charged as specified by the Plan.

4. For purposes of this Article, a full-time employee is defined as an employee in an allocated position whose regular work schedule on an ongoing basis is eighty (80) hours of work in each pay period; a part-time employee is defined as an employee in an allocated position whose regular work schedule on an ongoing basis is less than eighty

(80) hours of work in a pay period.

5. In order to be eligible for County contribution, except as otherwise required by law, a full-time employee must be in a paid status, eg. the employee must receive pay from work hours, compensatory time off, vacation, or sick leave in accordance with paragraph 4 above. An employee who is receiving Worker's Compensation temporary disability shall be eligible for continuation of the County's contribution until such time as eligibility for Worker's Compensation, temporary disability ceases.

6. An employee who ceases to be eligible for County Contributions must pay directly to Risk Management the full amount of employee and County Contribution in order to retain benefit coverage under the County sponsored Health/Dental benefit plan.

7. The County will not contribute toward the cost of any plan other than those sponsored by the County.

B. Health Plan Benefits are described in the specific Plan Documents.

C. Enrollment

1. Employees may enroll themselves and their eligible dependents in accordance with the provisions of the Plan. Employees may opt not to be covered by a County sponsored medical/dental plan as allowed by law. In such case, neither the County nor the employee shall be required to make the contributions specified in this Article as allowed by law. In such case, neither the County nor the employee shall be required to make the contributions specified in this Article as allowed by law.

2. Open Enrollment periods will occur once every calendar year in October. During an Open Enrollment Period, eligible employees may enroll themselves and eligible dependents in the County sponsored health plan of their choice.

D. Terms and Conditions

1. County sponsored medical plan coverage starts the first day of the month following date of hire and ends the last day of the month of termination of employment. Health Plan coverage shall be in accordance with the provisions of the Plan. Employees who retire or who separate from County service may, at their own expense, continue to be enrolled in the County sponsored plan in accordance with provisions of the plan or as provided by law.

2. The parties agree that the County Medical/Dental/Vision Plan is a Defined Benefit Plan, and that the County is required to provide the specified benefits during the term of



this MOU regardless of the level of contribution by the County and its employees.

E. Patient Protection and Affordable Care Act

The parties acknowledge that the Federal Patient Protection and Affordable Care Act (PPACA), its current and future related regulations and California law developed in response to the PPACA may create new requirements for the County and employees during the term of this Agreement.

**Section 2. Optional Benefit Plan**

The County shall provide each eligible full-time employee a contribution of \$6,000 per fiscal year, prorated over twenty-four (24) pay periods in which the employee is in a pay status for the full pay period or is on an approved leave of absence where they are receiving pay from vacation or sick leave for at least sixteen (16) hours in a pay period. The County shall not make any contribution for employees not in an approved leave status or receiving less than sixteen (16) hours of pay. Employees receiving less than sixteen (16) hours of pay per pay period and therefore not eligible for a County contribution shall pay the total contribution necessary to continue health and dental benefits. The payment is to be made payable to El Dorado County, and provided to the Risk Management Division.

Optional benefits are specifically defined in the Optional Benefits Plan. Provisions generally include the following:

- A. El Dorado County Health Care Account - Eligible employees may elect to receive medical and dental benefits under the County Optional Benefits Plan.
- B. Supplemental Life Insurance - An employee eligible under this section may use the Optional Benefits Plan to purchase additional life insurance subject to the provision of the Optional Benefits Plan and respective life insurance plans.
- C. Dependent Care - An employee eligible under this section may use the Optional Benefits Plan for reimbursing dependent care expenses subject to the provisions of the Optional Benefits Plan.
- D. Un-reimbursed Health Care - An employee eligible under this section may use the Optional Benefits Plan to establish an account for reimbursing uninsured health care expenses subject to the provisions of the Plan.
- E. Cash - An employee eligible under this section, who has elected to receive the employee's optional benefit or portion thereof in cash, may receive cash, which is taxable income, subject to the provision of the Plan.

F. Part-time Employee - A part-time employee, who on December 31, 1989 was provided with the full Optional Benefits Plan as a full-time employee, shall continue to be eligible for the full Optional Benefits Plan.

1. An employee who is hired on or after January 1, 1990, and whose regular work schedule as documented on the Payroll Personnel Form is between 64-79 hour per pay period, will be entitle to the same Optional Benefits Plan for a full-time employee.

2. A part-time employee who is hired on or after January 1, 1990, and whose regular work schedule as documented on the Payroll Personnel form is between 40-63 hours per pay period, will be entitle to receive seventy-five percent (75%) of the Optional Benefits Plan for a full-time employee.

3. A part-time employee who is hired on or after January 1, 1990, and whose regular work schedule as documented on the Payroll Personnel form is between 34-39 hours per pay period, will be entitled to receive fifty percent (50%) of the Optional Benefits Plan for a full-time employee.

4. A part-time employee who is hired on or after January 1, 1990, and whose regular work schedule is less than thirty-four (34) hours per pay period shall not be eligible for participation in the Optional Benefits Plan.

5. A part-time employee may work additional or fewer hours than the employee's "ongoing" work schedule without change to the level of entitlement based upon the number of hours initially set forth on the Payroll Personnel Form prorated contribution.

The prorated entitlement level may only be changed by amending the Payroll Personnel Form which documents a change to the ongoing work schedule.

### **Section 3. Employee Assistance Plan**

The County agrees to maintain the Employee Assistance Program for employees in the bargaining unit.

### **Section 4. Retiree Health Insurance**

Subject to the provision of the Retiree Health Benefits Contribution Plan Document, an employee who retires from County service who has attained a cumulative total completed years of service (excluding extra help service and provisional) with El Dorado County as specified below shall be entitled to the percentage monthly contribution of the "employee only" medical coverage rate (strictly health and not to include dental or vision) toward a County-Sponsored Health Plan as follows:

Level 3	20 years plus	67%
Level 2	15-19 years	50%
Level 1	12-14 years	33%

A. Part-time employees shall be treated in accordance with the Retiree Health Benefits Contribution Plan Document.

1. Miscellaneous provisions.

- a) An employee who retires may substitute up to fifty (50%) of the required County service required above with prior public service time with a county or city in the State of California.
- b) County contributions for all bargaining units under this program shall not exceed 1.2% of total County payroll costs during any given fiscal year pursuant to the provisions of the Retiree Health Benefits Contribution Plan Document. Retiree health contribution rates will be recalculated annually on a calendar year basis effective January 1 of each calendar year.

B. This Section 4 titled Retiree Health Insurance, as stated above, shall be discontinued for all newly hired employees effective no later than the first full pay period within June 30, 2009 or no later than the end of pay period fourteen (14).

C. In the event the County creates or allows participation in a new retiree health insurance plan for any other recognized bargaining unit, the parties agree to meet and confer on participation of Association employees hired after June 30, 2009.

**Section 5. Life Insurance**

The County shall provide a group term life insurance plan in the amount of \$40,000.00 for each regular, part-time employee and limited term extra help employee whose ongoing regular work schedule as designated on the Payroll Personnel Form is at least sixty (60) hours of work per pay period. Accidental Death & Dismemberment coverage is included in this Plan.

**Section 6. Plan Documents Or Contracts Controlling**

While mention may be made in this MOU of various benefits and provisions of benefit programs, specific details of benefits provided under the County Health/Dental Plan, Life, Worker's Compensation and Long-Term Disability Programs shall be governed solely by the various plan documents or insurance contracts and/or policies maintained by the County.

## **ARTICLE 13. HOURS & WORK SCHEDULES**

### **Section 1. Work Schedules**

The appointing authority shall fix the hours of work with due regard for the convenience of the public and the laws of the State and the County. The appointing authority shall assign employees to a regular work schedule and may change that schedule at the appointing authority's discretion.

The appointing authority shall give reasonable advance notice of a change in work schedule. Upon the recommendation of the Department Head, an alternate work schedule which differs from the standard work schedule of the department may, at the sole discretion of the Chief Administrative Officer, be approved provided that service to the public is not adversely affected.

### **Section 2. Overtime**

Employees shall work the necessary hours to perform their duties and responsibilities and shall not be entitled to receive overtime compensation.

## **ARTICLE 14. PROBATION**

Employees shall serve a one year probationary period from the date of appointment to a specific classification. An employee shall have his/her individual probationary period extended commensurately by each hour an employee is on authorized leave for more than ten (10) consecutive work days. Leaves include, but are not limited to, vacation, sick leave, compensatory time off, and leaves without pay, including leaves granted under the Family Medical Leave Act, California Family Rights Act, Pregnancy Disability Leave, Americans with Disabilities Act, and Workers' Compensation Law. Employees who request and receive a temporary modified duty assignment due to medical conditions such that they are not performing the essential job functions of their position shall have their probationary period extended for each hour of such modified duty assignment. Nothing herein is intended to prevent the Appointing Authority from extending a probationary period one time for a period not to exceed six months to ensure that an employee has demonstrated all of the necessary skills and traits to successfully pass probation for the job classification.

## **ARTICLE 15. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE**

The following Layoff and Demotion Procedures upon Reduction in Force policy is hereby included as a part of this MOU. Such inclusion, however, shall not provide

avenues of appeal beyond those contained in this Article.

### **Section 1. Policy**

When necessary, and directed by the Board of supervisors, a reduction in the County's work force may be initiated by (1) lack of work, (2) lack of funds, (3) program or organizational changes resulting in a surplus of employees, or (4) elimination of a specific program or service. Insofar as possible, a reduction in force shall be accomplished by attrition. When it is determined by the Board of Supervisors that attrition will not provide relief for the condition warranting a reduction in the number of County employees, the board may direct (1) a temporary layoff of up to ten (10) working days of specific employees or classifications without invoking the provisions of this policy, or (2) a specific layoff by classification, number of employees and department(s) pursuant to this policy.

### **Section 2. Procedure For Permanent Layoffs**

Reduction in Force occurs when the Board of Supervisors by Resolution amends the Authorized Personnel Allocation Resolution and/or adopts a Proposed or Final Budget that deletes specific positions by classification from the County Counsel's office.

- A. The Department of Human Resources, with the assistance of the County Counsel's office, determines the individuals to be laid off for the initial classification in which a layoff is to occur and for succeeding lower level classification(s) if displacement by bumping (demoting in lieu of layoff) is anticipated in accordance with this Article according to retention points. A list of the classifications in which positions have been deleted along with the names and total retention points of employees in those classes shall be posted in the affected department and a copy mailed to the Association's current address. It is the Department Head's responsibility to ensure posting.
- B. Layoffs and displacements are made within the department and are not Countywide. C. Written notice of layoff shall be served on affected employees in person or by certified letter mailed to the last address on file with the Department of Human Resources. Notice will be served in person or mailed no later than thirty (30) calendar days prior to the effective date of separation. The thirty (30) calendar days shall include the effective date and the date served. Notice shall be deemed served upon the postmarking and logging of the certified letter by the County's mailroom or upon personal serving of the notice to the individual.
- C. The written layoff notice shall include the effective date of the separation (layoff), the reasons for the layoff, the seniority score of the employee, the formula by which the seniority score was computed (e.g., any unpaid leave taken, prior county service, etc.), displacement (bumping) rights, if any, rehire or restoration rights and the appeal rights. Such notice shall also set a specific deadline of not

less than five (5) working days for when the affected employee must notify the Human Resources Department that the employee will be exercising their displacement rights.

### **Section 3. Order Of Layoffs**

Layoffs will be determined based on an inverse order of retention points computed as per provisions listed below. Any required reduction in the number of employees shall be in the following order within the same classification:

- 1) Extra-help and provisional,
- 2) Probationary employees serving an initial probationary period,
- 3) Regular permanent full-time and part-time employees.

- A. Longevity in the Department- A full-time employee shall receive one point for each full month of continuous service as a regular El Dorado County employee in the position of Associate County Counsel, Deputy County Counsel, Senior Deputy County Counsel or Principal Assistant County Counsel. This includes probationary time. Part-time employees shall receive a proportional amount of longevity points based upon the number of hours worked. Less than a full month of service shall be prorated. It does not include service prior to employment, interruptions caused by resignation, dismissal, or transfer to extra-help status or disciplinary actions as defined in Section 2, below. It includes periods covered by authorized paid leaves of absences and service accrued before a previous layoff. The maximum number of retention points an employee can earn for longevity within the classifications covered by this MOU is not limited.
- B. Other County Service -An employee shall receive up to twelve (12) retention points (1 point for each month of full-time service up to 12 points) in any other classification within the County, if that other County service immediately preceded without break in service the employee's service as an Associate County Counsel, Deputy County Counsel, Senior Deputy County Counsel, or Principal Assistant County Counsel.
- C. Performance/Disciplinary Action - An employee who received an involuntary demotion as a disciplinary action will have twelve (12) points deducted from that employee's retention points. An employee who receives a suspension will have one-half of one (.5) point per day of suspension deducted from the employee's retention points, with a maximum deduction of twelve (12) points. The loss in retention points due to a suspension will sunset after three (3) years from the effective date of the action and the lost retention points will be restored to the employee.
- D. Calculation of Retention Points – For the purpose of calculating retention points,

all classifications covered by the MOU (Associate County Counsel, Deputy County Counsel, Senior Deputy County Counsel, and Principal Assistant County Counsel) shall be treated as one classification (Example: The BOS determines to lay off one Senior Deputy County Counsel. Employee A was hired by the department 50 months ago as a Senior Deputy County Counsel; Employee A would have 50 longevity retention points. Employee B was hired as a Deputy County Counsel 60 months ago and was promoted to Senior Deputy County Counsel 12 months ago. Employee B would now have 60 longevity retention points as a Senior Deputy County Counsel). Assuming there had been no disciplinary actions or unpaid leaves Employee A would be subject to lay-off or demotion from Senior Deputy County Counsel before Employee B.

- E. Ties – in cases where two or more employees are tied with the same number of retention points, the following factors shall be considered in order for the purpose of breaking the tie: Total County service (including County service prior to the most current period of employment); the scores on any evaluations done within the preceding three years, and any disciplinary actions, including letters of reprimand, notwithstanding the sunset provision contained above in Section C.
- F. Volunteers for Layoff – An employee who occupies a class affected by a layoff and/or displacement may volunteer to be laid off in place of another employee who has fewer retention points and who would otherwise be laid off. Such employee shall be entitled to the same rights and restoration privileges as other employees in accordance with this Article.

#### **Section 4. Layoff Privileges**

The following are the options open to affected individuals in each layoff instance:

- A. Displacing in a Lower Class – An employee affected by layoff may at his/her discretion in lieu of layoff displace an employee in a lower classification who has fewer retention points, whether or not the affected employee was previously employed in that lower classification. (Example: the Board determines to lay off a Senior Deputy County Counsel. Employee A, the Senior Deputy County Counsel with the fewest retention points, has 50 points. Employee A may elect to displace a Deputy County Counsel who has 49 points or fewer, even if Employee A was initially hired as a Senior Deputy County Counsel and never served as a Deputy County Counsel). Displacement in lieu of lay off is considered a voluntary demotion.
- B. Restoration – Restoration shall be in inverse order of layoff. Names of employees with permanent status who have been laid off will be placed on an appropriate restoration list for their classification and department in order of Retention Points accumulated in the respective classification. The list will extend for a period of two (2) years from the date of layoff. Employees shall also have restoration rights to a classification which has been replaced by a reclassification

of the classification which the person previously held permanent status, provided that the duties have remained essentially the same.

This list shall be maintained in the Human Resources Department. This includes employees taking voluntary demotions in lieu of layoff who shall be placed on a restoration list for the class from which they were reduced.

Three refusals to accept restoration from a departmental layoff list will remove the eligible individual's name from that list unless the offer of restoration is in excess of twenty five (25) miles from the geographical location of the position from which the employee was laid off. A person notified of an offer of restoration must respond within ten (10) working days from the mailing date. Offers of restoration shall be sent by first class mail to the last address on file in the Human Resources Department. It is the employee's responsibility to insure that a current address is provided to the County Human Resources Department.

- C. Transfer and Demotion – Employees to be laid off may be permitted to transfer or demote at the discretion of the appropriate Department Head(s) prior to the layoff effective date. Transfer or demotion may be made to any funded vacant position where the employee meets the minimum qualifications. However, transfer will not be permitted to a position in another County department if a departmental layoff list exists for that class. When an employee transfers or demotes in accordance with provisions of the Article and is required by the Department Head to complete a new probationary period, which results in his/her rejection during probation, he/she shall not be required to forfeit his status on any layoff list.
- D. Placement In Other Departments – In accordance with rules on order of layoff, an employee who shall be laid off shall have a right to be placed in a vacant position in the same class in another department which the department has determined to fill. Referral to a vacant position shall be offered based upon the inverse order of layoff. The new appointing authority shall have up to ninety (90) days to evaluate the employee's performance. If the appointing authority determines that the employee's performance does not meet job standard, the employee will be returned to the layoff list. The employee will, in accordance with the rules on restoration, be eligible for placement in another vacant position in the same class which a department has determined to fill, according to the provisions above.
- D. Separation from County Service – Employees who are to be laid off have the option of leaving County service rather than displacing in a lower class, transferring or demoting. In the event an employee is laid off for an indefinite period, he/she may, upon request, receive payment for those benefits normally given to terminated employees.
- F. Employment Interviews – Department Heads who are referred the names of



individuals designated for layoff and who have requested transfers shall personally ensure that such persons are provided an employment interview.

G. Status on Restoration – An employee who has been laid off or voluntarily reduced under the provisions of this Article and subsequently restored in their former classification within a two (2) year period from the date of his/her layoff or voluntary reduction shall receive the following considerations and benefits:

1. All sick leave credited to the employee's account when laid off shall be restored, unless the employee received compensation for such sick leave at the time of the layoff.
2. All Retention Points held upon layoff shall be restored.
3. All prior service shall be credited for the purpose of determining sick leave and vacation earning rates, longevity pay increases and time in step.
4. The employee shall be placed on the step of the salary range that was held at the time of the layoff.

H. Meet and Confer – Prior to the actual layoffs, the County's representatives and the Association shall, at the request of the Bargaining Unit, meet and confer over the practical effects of the proposed layoffs.

## **Section 5. Appeal Of Layoff**

A. Right of Appeal

1. Permanent employees receiving a notice of layoff shall have the right to appeal solely on the issue of whether or not there was compliance with the procedures prescribed in this Article.
2. The right of appeal is limited to the scope and process provided in this Section 5, Appeal of Layoff.
3. The scope of any appeal shall not include such issues as the need for layoff, the reasons for layoff, or the exercise of other County prerogatives involved in layoff.
4. Probation, Provisional, Temporary and Extra Help employees have no right of appeal of a notice of layoff. Questions and disputes regarding permanent status shall be determined by the Civil Service Commission in accordance with their rules, regulations and procedures.

B. Notice and Timing of Appeal

1. Appeals shall be filed in writing with the Director of Human Resources.
2. Appeals shall be filed within five (5) working days after the date of service of the notice of layoff as provided in Article 15. Section 2.C.
3. The notice of appeal shall state the employee's reasons for the appeal consistent with Article 15. Section S.A.

C. Responsibilities of the Director of Human Resources or Designee

1. The Director of Human Resources or designee shall within three (3) working days of receipt of an appeal, forward a copy of the appeal to the Association.
2. The Director of Human Resources or designee shall within three (3) working days of receipt of an appeal, determine which employees, if any, will be adversely affected if the appeal is successful and notify all employees potentially adversely affected by the appeal.

D. Layoff Arbitration Panel. A tripartite Layoff Arbitration Panel shall be appointed to hear all appeals having the same effective date for layoff.

1. Appeals shall be heard by a tripartite panel consisting of:
  - a. A representative designated by the Director of Human Resources.
  - b. A representative designated by the Association.
  - c. A neutral member selected in accordance with Article 15. Section 5.D.2.
2. The neutral Layoff Arbitration Panel member shall be chosen by:
  - a. Mutual agreement between the County and Association or their designated representatives within five (5) working days of notification to the Association of an appeal.
  - b. If the County and the Association fail to name a neutral arbitration panel member within five (5) working days of notification to the Association of the appeal, a member of the Civil Service Commission (CSC) shall serve as the neutral third member of the arbitration panel.
    - 1) Either party may notify the Chair of the CSC of their inability to agree on a neutral;
    - 2) Either party may notify the Chair of the CSC if their desire that a member of

the CSC serve as the neutral member of the Layoff Arbitration Panel in lieu of agreement on a third party;

- 3) The Chair of the CSC shall name a member of the CSC to serve as the neutral member of the Layoff Arbitration Panel and an alternate.
3. The Layoff Arbitration Panel shall convene and open the hearing within fifteen (15) working days of the initial filing of the appeal. Representatives to the arbitration panel shall be named with primary consideration being given to their availability to meet within the fifteen (15) working day time limit.
  - a. If either or both parties fail to name a representative who can meet within the time limit, the CSC Chair shall name a member (s) of the CSC to service as a 2nd, and if necessary, 3rd neutral in lieu of the failure of either or both parties to provide an available representative.
  - b. If the Civil Service Commissioner(s) designated, or the alternate, cannot serve within the time limit, the Chair shall designate another Civil Service Commissioner(s) who can serve within the time limit.

#### E. Hearing Process

1. The employee filing the appeal and all other potentially affected employees will be notified of the date, time and place of the hearing not less than two (2) working days in advance of the hearing.
2. The neutral member shall serve as Chair of the Layoff Arbitration Panel.
3. The hearing shall be conducted in accordance with standard administrative hearing procedures used by the Civil Service Commission.
4. In addition to hearing such evidence and witnesses as the parties, including any employees potential affected by the appeal, may call, the Layoff Arbitration Panel may question witnesses and call such witnesses as they deem appropriate.

#### F. Decision

1. The Layoff Arbitration Panel shall issue their written decision within two (2) working days of closing the hearing.
2. The decision of the Layoff Arbitration Panel shall be final and binding on all parties.

## **ARTICLE 16. DISCIPLINARY APPEALS**

A regular employee represented by this unit who has obtained civil service status shall have the right to appeal a termination, demotion in class or salary step, or suspension without pay. Such appeal shall be in accordance with the provisions of Personnel Rules Part 12.

## **ARTICLE 17. GRIEVANCE PROCEDURE**

### **Section 1. Intent**

It is the intent of this procedure to provide for an orderly and equitable procedure for the resolution of misunderstanding and disputes between the County and its employees and/or the Association. The use of this procedure in resolving employee grievances shall not be held against any employee.

### **Section 2. Informal Discussion**

Every effort should be made to settle grievances, performance issues and related disputes at the lowest level of supervision possible. If an employee has a complaint relating to a work situation, the employee is encouraged to request a meeting with his/her immediate supervisor and may seek assistance from a shop steward and/or labor representative to discuss the problem in an effort to clarify the issue and to work cooperatively toward settlement.

### **Section 3. Scope Of Grievances**

- A. A grievance is a claimed violation, misapplication or misinterpretation of the provisions of a MOU or employee protections contained in ordinances, resolutions, written Personnel Rules or written policies, adversely affecting an employee's wages, hours or conditions of employment.
- B. Specifically, excluded from the scope of grievances are:
  - 1. Subjects involving the amendment or change of Board of Supervisor's resolutions and ordinances, which do not incorporate the provisions of this MOU or other employee protections contained in ordinances, resolutions, personnel rules or written policies.
  - 2. Discrimination complaints that allege violations of equal employment opportunity laws or employment discrimination. Such complaints shall be processed pursuant to the County Policy "Prohibiting Discrimination, Harassment and Retaliation".

3. Appeals of the Layoff and Demotion Procedures upon Reduction in Force Articles and Policies, which fall under the appeal process contained within that policy.
4. Appeals of disciplinary actions resulting in termination, demotion or suspensions without pay. Such appeals shall be processed pursuant to the County's Civil Service Appeal Procedure.
5. Internal department operational policies and procedures that determine the methods, processes, means and places of providing services, except as those policies affect the terms and conditions of employment.

#### **Section 4. Definitions**

- A. Grievant- A grievant is (1) an employee in the unit who is filing a grievance as defined herein, or (2) if two or more employees have essentially the same grievance, they may, if approved by the Director of Human Resources or designee, submit their combined grievances as one grievant. The Association may initiate a grievance where actions or policies directly affect employees in the bargaining unit represented by the Association.
- B. Working Day - Shall mean day(s) in which the County's main administration office is open for business.

#### **Section 5. Grievance Procedure**

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

##### **A. Employee-Initiated Grievance**

1. The employee shall prepare a written grievance within twenty-five (25) working days of the incident or occurrence giving rise to the complaint. The employee shall submit the grievance to the immediate supervisor and Department Head or designee. The grievance shall describe the issue and identify the Article of the MOU or section of written policy, rule, resolution or ordinance that the employee feels has been violated as well as the requested remedy.
2. The Department Head or designee shall investigate the grievance. The Department Head or designee investigation should include a meeting with the grievant and their representative. The Department Head or designee shall respond to the grievance in writing within ten (10) working days of receipt of the grievance. The Department Head shall sign the response to the grievance.

3. If the Department Head or designee manager's written response does not resolve the grievance, the grievant, within five working days, shall submit the grievance to the Human Resources Director or his/her designee. The Human Resources Director's designee shall not be from the same Department(s) where the grievance arose.
4. The Human Resources Director or designee shall investigate the grievance. The Human Resources Director or designee's investigation should include meeting with the grievant or his/her representative. The Human Resources Director or designee shall respond to the grievance in writing within fifteen (15) working days.

**B. Association Initiated Grievance**

1. The Association shall submit a written grievance to the Human Resources Director or designee within twenty-five (25) working days of the incident giving rise to the grievance, with copies to affected Department Heads.
2. The Human Resources Director or designee shall investigate the grievance and shall issue a written response to the grievance within twenty (20) working days,

**Section 6. Arbitration**

- A. If the Human Resources Director's or designee's written response to either an employee- or Association initiated grievance fails to resolve the grievance, the Association may submit the grievance to arbitration for resolution. The decision of the arbitrator is final and binding on all parties, subject to ratification by the Board of Supervisors if the decision requires an unbudgeted expenditure.
- B. The grievant's representative and the Director of Human Resources or designee shall attempt to mutually agree on an acceptable arbitrator for the dispute. If no agreement can be reached on an arbitrator within five (5) working days, a list of seven (7) names from the California State Conciliation and Mediation Service shall be obtained. The parties shall alternately strike names until only one name remains, which name shall be the arbitrator in the dispute. The party to strike the first name shall be chosen by lot. The arbitrator shall have no power to add to, subtract from, alter, modify or go beyond the applicable provisions of the MOU.
- C. Upon mutual agreement, in lieu of arbitration, the parties may determine to submit the matter to the Civil Service Commission for final resolution, subject to ratification by the Board of Supervisors if the decision requires an unbudgeted expenditure.

## **Section 7. Basic Rules**

- A. Costs – All costs of arbitration or Civil Service Commission incurred jointly by both parties to the final resolution process shall be borne equally by the parties. Costs incurred separately shall be borne by the party incurring them. Upon expiration of this MOU, the County shall bear the cost of any grievance heard by the Civil Service Commission. The County and Association shall continue to share equally in the cost incurred jointly by both parties for arbitration heard after the expiration of this MOU.
- B. Time Limits – If a grievant or the Association fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized. If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal his/her grievance to the next higher level. Time limits may be waived by mutual written consent of the parties.
- C. Representation – The grievant may be accompanied by a shop steward or one other County employee of his/her choice at the informal level of this procedure. At the formal and final stages of this grievance procedure, an employee may be represented by a shop steward or person designated by the Association unless otherwise agreed upon by the Association and Director of Human Resources or designee.
- D. Shop Stewards – The Association may designate a reasonable number of shop stewards who will be available to assist employees with grievances. Only such shop stewards as are recognized by the Director of Human Resources or designee will be given release time as provided below.
- E. Release Time – The grievant may take reasonable County time without loss of pay to prepare his/her grievance and meet with County representatives regarding the grievance.

Association designated shop stewards may take a reasonable amount of time, as determined by the Director of Human Resources or designee, without loss of pay to assist a grievant in preparing and presenting a grievance. Only one shop steward will be allowed release time to assist any one grievant or on any one grievance.

## **ARTICLE 18. RENEGOTIATIONS**

### **Section 1. Successor Agreement**

In the event that either party desires to negotiate a successor Memorandum, the party

shall serve upon the other its written request to commence negotiations, provided that negotiations shall begin no later than 90 calendar days prior to the termination date of this MOU absent mutual agreement to the contrary.

## **Section 2. Notification Of Representative**

The parties shall notify one another of the names of their designated representatives at least thirty (30) days in advance of the first meeting.

## **Section 3. Negotiations During Work Hours**

Association representatives, not to exceed three (3) in number, shall be granted reasonable time off without loss of compensation or other benefits in order to participate in negotiations. Every effort shall be made to schedule negotiations during regular business hours to the extent practicable. Participation in negotiations does not release any employee from responsibilities of their full-time employment requiring immediate attention or action (for example, schedule court appearances or emergency callback).

## **ARTICLE 19. PEACEFUL PERFORMANCE**

The parties to this MOU recognize and acknowledge that the services performed by the County employees covered by this Agreement are essential to the public health, safety, and general welfare of the residents of the County of El Dorado. The Association agrees that under no circumstances will the Association recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in any strike, sit-down, stay-in, sick-out, slow-down or picketing (hereinafter collectively referred to as work stoppage) in any office or department of the County, nor to curtail any work or restrict any production, or interfere with any operation of the County. Nor will this organization recognize the strike or job action of any organization or engage in any sympathy strike by recognizing the strike, job action or picket lines of any other organization. In the event of any such work stoppage by any member or the bargaining unit, the County shall not be required to negotiate on the merits of any dispute that may have given rise to such work stoppage until said work stoppage has ceased.

In the event of any work stoppage during the term of this, whether by the Association or by any member of the bargaining unit, the Association by its officers shall immediately declare in writing and publicize that such work stoppage is illegal and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the County. In the



event of any work stoppage the Association had not otherwise authorized, permitted or encouraged, the Association shall not be liable for any damages caused by the violation of this provision. However, the County shall have the right to discipline, to discharge, any employee who instigates, participates in, or gives leadership to any work stoppage activity herein prohibited, and the County shall have the right to seek full legal redress, including damages, against any such employee.

### **Section 1. Job Actions – Sick-Outs**

Variance from Personnel Rule 1404 - Whenever the CAO or designee determines that an increase in absenteeism due to a job action or sick out is significantly and detrimentally affecting the ability of one or more departments to carry out functions, the CAO or designee may declare that this Section shall be in force and the following rules shall apply. These requirements shall stay in effect for all purposes until after the CAO determines that the increased incidence of absenteeism and the threat of such increased incidence of absenteeism have abated.

- A. The department heads of the departments specified in the CAO declaration shall require that each employee who is unable to report for duty due to illness or injury that is requesting sick leave shall provide a certificate completed and signed by a licensed physician or other qualified medical professional. This certificate shall show that the physician examined the employee during the period of absence from work, state the date of each examination, describe the physician's diagnosis of the employee's illness or nature and extent of the employee's injury and certify that the physician has recommended that the employee be excused from work for medical reasons, and the specific number of days of the recommended excuse. Such medical verification shall be provided to the department head within three (3) working days of the employee's return to work.
- B. The employee shall also provide a sworn affidavit justifying their claim of sick leave. Such affidavit shall be provided to the employee by the department head upon their return to work. Each request for sick leave time will be evaluated individually at the time the required documentation is received.
- C. An employee shall not be allowed sick leave credit and shall not be compensated for any period of absence unless the employee has complied with the requirements of this policy and unless the information provided therein and otherwise required of or provided by the employee is deemed to substantiate the claimed illness or injury. The employee may appeal a denial of sick leave through the County's Grievance Procedure.
- D. It is recognized that the facts which constitute the basis for use of sick leave may vary considerably from employee to employee and that in rare instances, the specific requirements of this rule may not be appropriate or feasible. Accordingly, discretionary variances, (but not waivers from the requirements of these rules) may

be considered and allowed by the CAO or designee. Any such variance shall, if feasible, provide for an acceptable alternative means by which the employee involved shall provide assurance of the existence of facts which are adequate as a basis for proper use of sick leave.

## **ARTICLE 20. FULL UNDERSTANDING, MODIFICATION, WAIVER**

This MOU sets forth the full and entire understanding regarding the matters set forth herein, and any other prior or existing understandings or agreements relating to such matters are hereby superseded or terminated as appropriate. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein during the term of this MOU.

No agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties, unless made and executed in writing by all the parties hereto, and if required, approved and implemented by the County.

## **ARTICLE 21. SEVERABILITY**

If any provisions of this MOU are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

## **ARTICLE 22. ECONOMIC HARDSHIP**

At any time after the effective date of this MOU, upon thirty (30) calendar days written notice to the Association, the County may reopen this agreement for renegotiation regarding future increases in compensation if a financial shortfall in the County budget has occurred that has caused the Board of Supervisors to actually reopen negotiations with other employee groups negotiated MOUs or adopted Salary and Benefit Resolution, except with respect to any salaries governed by the County Personnel Rules. Any notice provided subject to this section must include evidence demonstrating the basis for the claim of hardship.

## **ARTICLE 23. DRUG FREE WORK PLACE**

The County and the Association agree that they are committed to providing and maintaining a drug free work place in accordance with the Drug Free Work Place Act of

1988. It is understood that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the work place and that violation of this provision would subject the employee to disciplinary action. An employee may possess a prescription medication lawfully obtained via a prescription from a licensed medical doctor. The County has a zero tolerance standard for employees being under the influence of or in possession of alcohol and/or drugs while at work. Reasonable effort will be made to inform employees about the dangers of drug abuse in the work place, the availability of any counseling or rehabilitation, as well as the Employee Assistance Program, and that disciplinary action may be imposed upon employees for drug abuse violations occurring in the work place or affecting work performance. The Parties shall discuss the adoption of a reasonable suspicion drug testing policy during the term of this MOU.

In witness whereof, the parties hereto have caused this Memorandum of Understanding to be executed by affixing their signatures below.

COUNTY OF EL DORADO  
Counsel

EL Dorado County Deputy County

\_\_\_\_\_  
Jack Hughes  
Liebert, Cassady, Whitmore  
Lead Negotiator for the County

\_\_\_\_\_  
David Livingston  
President

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Bobbi Bennett  
Human Resources Manager

\_\_\_\_\_  
Michael Ciccozzi  
Deputy County Counsel

\_\_\_\_\_  
Norma Santiago, Chairman  
Board of Supervisors

\_\_\_\_\_  
Janeth San Pedro  
Deputy County Counsel

Date \_\_\_\_\_

ATTEST: James S. Mitrison,  
Clerk of the Board of Supervisors