

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
EAST CONTRA COSTA FIRE PROTECTION DISTRICT  
AND  
UNITED CLERICAL, TECHNICAL & SPECIALIZED  
EMPLOYEES  
AFSCME, LOCAL 2700**

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**AND**  
**UNITED CLERICAL, TECHNICAL & SPECIALIZED**  
**EMPLOYEES**  
**AFSCME, LOCAL 2700**

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This Memorandum of Understanding (MOU) has been jointly prepared by the parties.

The Fire Chief is the representative of East Contra Costa Fire Protection District in employer-employee relations matters.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in units in which the Union is the recognized representative, have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations covering such employees.

This MOU shall be presented to the East Contra Costa Fire Protection District's Board of Directors, as the governing board of the District, as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing July 1, 2013 and ending June 30, 2016.

**DEFINITIONS**

**Appointing Authority:** Fire Chief unless otherwise provided by statute or ordinance.

**Class Title:** The designation given to a class, to each position allocated to the class, and to the employees allocated to the class.

**Classification:** A group of positions sufficiently similar with respect to the duties and responsibilities that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.

**Day:** A day is defined as a calendar day, unless specified.

**Demotion:** The change of a regular employee to another position in a class allocated to a salary range for which the top step is lower than the top step of the class which the employee formerly occupied.

**District:** East Contra Costa Fire Protection District.

**Eligible:** Any person whose name is on an employment or reemployment or layoff list for a given class.

**Employee:** A person who is an incumbent of a position or who is on leave of absence in accordance with provisions of this MOU and whose position is held pending his/her return.

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**Employment List:** A list of persons who have been found qualified for employment in a specific class.

**Fire Chief:** the person designated by the East Contra Costa Fire Protection District Board of Directors as Fire Chief, or designee if the Fire Chief is indisposed.

**Layoff List:** A list of persons who have occupied positions allocated to a class and who have been involuntarily separated by layoff or displacement, or demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement, or have transferred in lieu of layoff or displacement.

**Regular Part-Time Position:** Any position which will require the services of an incumbent for an indefinite period but on a regularly scheduled less than full time basis.

**Regular Position:** Any position which has required, or which will require, the services of an incumbent without interruption, for an indefinite period.

**Position:** The assigned duties and responsibilities calling for the regular full time, part-time or intermittent employment of a person.

**Project Employee:** An employee who is engaged in a time limited program or service, by reason of limited, or restricted funding. Such positions are typically funded from outside sources but may be funded from District revenues.

**Promotion:** The change of a regular employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied.

**Reallocation:** The act of reassigning an individual position from one class to another class at the same range of the salary schedule or to a class which is allocated to another range that is within five percent (5%) of the top step, except as otherwise provided for in the Administrative Bulletins , resolutions or other ordinances.

**Reclassification:** The act of changing the allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the kind, difficulty or responsibility of duties performed in such position.

**Reemployment List:** A list of persons, who have occupied positions allocated to any class and, who have voluntarily separated and are qualified for consideration for reappointment.

**Resignation:** The voluntary termination of employment with the District.

**Temporary Employment:** Any employment which will require the services of an incumbent for a limited period of time, paid on an hourly basis, not in an allocated position or in regular status.

**Union:** American Federation of State, County and Municipal Employees (AFSCME) Local 2700

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## **SECTION 1 – UNION RECOGNITION**

The Union is the formally recognized employee organization for the employees covered by this agreement which consists of the classifications listed below:

Administrative Assistant I  
Administrative Assistant II

## **SECTION 2 - UNION SECURITY**

**2.1 Dues Deduction.** Only a majority representative may have dues deduction and as such the Union has the exclusive privilege of dues deduction or agency fee deduction for all employees in its units.

### **2.2 Agency Shop.**

- A. The Union agrees that it has a duty to provide fair and non-discriminatory representation to all employees in all classes in the units for which this section is applicable regardless of whether they are members of the Union.
- B. All employees employed in a representation unit on or after the effective date of this MOU and continuing until the termination of the MOU, shall as a condition of employment either:
1. become and remain a member of the Union or;
  2. pay to the Union, an agency shop fee in an amount which does not exceed an amount which may be lawfully collected under applicable constitutional, statutory, and case law, which under no circumstances shall exceed the monthly dues, initiation fees and general assessments made during the duration of this MOU. It shall be the sole responsibility of the Union to determine an agency shop fee which meets the above criteria; or
  3. do both of the following:
    - a. execute a written declaration that the employee is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
    - b. pay a sum equal to the agency shop fee described in Section 2.2.B.2 to a non-religious, non-labor, charitable fund chosen by the employee from the following charities: Family and Children's Trust Fund, Child Abuse Prevention Council and Battered Women's Alternative.
- C. The Union shall provide the District with a copy of the Union's Hudson Procedure for the determination and protest of its agency shop fees. The Union shall provide a copy of said Hudson Procedure to every fee payer covered by this MOU within one (1) month from the date

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it is approved and annually thereafter, and as a condition to any change in the agency shop fee. Failure by an employee to invoke the Union's Hudson Procedure within one (1) month after actual notice of the Hudson Procedure shall be a waiver by the employee of their right to contest the amount of the agency shop fee.

- D. The provisions of Section 2.2.B.2 shall not apply during periods that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term separation includes transfer out of the unit, layoff, and leave of absence with a duration of more than thirty (30) days.
- E. The Union shall provide the District with copies of a financial report patterned after Form LM-2 pursuant to the Labor Management Disclosure Act of 1959. Such report shall be available to employees in the unit. Failure to file such a report not later than June 1st of each calendar year shall result in the termination of all agency shop fee deductions without jeopardy to any employee, until said report is filed.
- F. Compliance.
  - 1. An employee employed in or hired into a job class represented by the Union shall be provided with an "Employee Authorization for Payroll Deduction".
  - 2. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this agency shop fee provision and the union dues, agency shop fee, initiation fee or charitable contribution required under Section 2.2.B.3 are not received, the Union may, in writing, direct that the District withhold the agency shop fee and the initiation fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the agency shop fee and the District shall pay an equal amount to the Union.
- G. The Union shall indemnify, defend, and save the District harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this union security section, or action taken or not taken by the District under this Section. This includes, but is not limited to, the District's Attorneys' fees and costs. The provisions of this subsection shall not be subject to the grievance procedure.
- H. The District shall furnish a list of all new hires to the Union.
- I. In the event that employees in a bargaining unit represented by the Union vote to rescind Agency Shop, the provisions of Section 2.3 (Maintenance of Membership) and 2.4 (Union Dues Form) shall apply to dues-paying members of the Union.

**2.3 Maintenance of Membership.** All employees in the unit represented by the Union who are currently paying dues to the Union and all employees who hereafter become members of the Union shall as a condition of continued employment pay dues to the Union for the duration of this MOU and each year thereafter so long as the Union continues to represent the position to which the employee is assigned

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**2.4 Union Dues Form.** Employees hired into classifications represented by the Union shall, as a condition of employment, complete a Union dues authorization card provided by the Union and shall have deducted from their paychecks the membership dues of the Union. Said employees shall have thirty (30) days from the date of hire to decide if he/she does not want to become a member of the Union. Such decision not to become a member of the Union must be made in writing to the District within said thirty (30) day period. If the employee decides not to become a member of the Union, any Union dues previously deducted from the employee's paycheck shall be returned to the employee and said amount shall be deducted from the next dues deduction check sent to the Union. If the employee does not notify the District in writing of the decision not to become a member within the thirty (30) day period, he/she shall be deemed to have voluntarily agreed to pay the dues of the Union.

Each such dues authorization form referenced above shall include a statement that the Union and the District have entered into a MOU, that the employee is required to authorize payroll deductions of Union dues as a condition of employment, and that such authorization may be revoked within the first thirty (30) days of employment upon proper written notice by the employee within said thirty (30) day period as set forth above. Each such employee shall, upon completion of the authorization form, receive a copy of said authorization form which shall be deemed proper notice of his/her right to revoke said authorization.

**2.5 Communicating With Employees.** The Union shall be allowed to use designated portions of bulletin boards or display areas in public portions of District buildings or in public portions of offices in which there are employees represented by the Union, provided the communications displayed have to do with matters within the scope of representation and further provided that the employee organization appropriately posts and removes the information. The District reserves the right to remove objectionable materials after consultation with the Union.

Representatives of the Union, not on District time, shall be permitted to place a supply of employee literature at specific locations in District buildings if arranged through the District or designated representative; said representatives may distribute employee organization literature in work areas (except work areas not open to the public) if the nature of the literature and the proposed method of distribution are compatible with the work environment and work in progress. Such placement and/or distribution shall not be performed by on-duty employees.

The Union shall be allowed access to work locations in which it represents employees for the following purposes:

1. to post literature on bulletin boards;
2. to arrange for use of a meeting room;
3. to leave and/or distribute a supply of literature as indicated above;
4. to represent an employee on a grievance, and/or to contact a union officer on a matter within the scope of representation.

In the application of this provision, it is agreed and understood that in each such instance advance arrangements, including disclosure of which of the above purposes is the reason for the visit, will be made with the departmental representative in charge of the work area, and the visit will not interfere with District services.

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**2.6 Use of District Buildings.** The Union shall be allowed the use of areas normally used for meeting purposes for meetings of District employees during non-work hours when:

- a. such space is available and its use by the Union is scheduled twenty-four (24) hours in advance;
- b. there is no additional cost to the District;
- c. it does not interfere with normal District operations;
- d. employees in attendance are not on duty and are not scheduled for duty; and
- e. the meetings are on matters within the scope of representation.

The administrative official responsible for the space shall establish and maintain scheduling of such uses. The Union shall maintain proper order at the meeting, and see that the space is left in a clean and orderly condition.

The use of District equipment (other than items normally used in the conduct of business meetings, such as desks, chairs, and white boards) is strictly prohibited, even though it may be present in the meeting area.

**2.7 Advance Notice.** The Union shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board, or boards and commissions appointed by the Board, and to meet with the body considering the matter.

The listing of an item on a public agenda, or the mailing of a copy of a proposal at least seventy-two (72) hours before the item will be heard, or the delivery of a copy of the proposal at least twenty-four (24) hours before the item will be heard, shall constitute notice.

In cases of emergency when the Board, or boards and commissions appointed by the Board, determines it must act immediately without such notice or meeting, it shall give notice and opportunity to meet as soon as practical after its action.

**2.8 Written Statement for New Employees.** The District will provide a written statement to each new employee hired into a classification in any of the bargaining units represented by the Union, that the employee's classification is represented by the Union and the name of a representative of the Union. The District will provide the employee with a packet of information which has been supplied by the Union and approved by the District. The District shall notify the Union of the District new employee orientation meetings and provide an opportunity for the Union to make a fifteen (15) minute presentation at the end of the District's new employee orientation meetings.

### **SECTION 3 – NO DISCRIMINATION/HARASSMENT**

There shall be no discrimination because of sex, race, creed, color, national origin, sexual orientation or union activities against any employee or applicant for employment by the District or by anyone employed by the District; and to the extent prohibited by applicable State and Federal law there shall be no discrimination because of age. There shall be no discrimination against any disabled person solely because of such disability. There shall be no discrimination because of Union membership or legitimate Union activity against any employee or applicant for employment by the District or anyone employed by the District.

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The District agrees to abide by its Anti-Harassment Policy.

**3.1 Americans With Disabilities Act (ADA).** The District and the Union recognize that the District has an obligation to reasonably accommodate disabled employees. If by reason of the aforesaid requirement the District contemplates actions to provide reasonable accommodation to an individual employee in compliance with the ADA which are in conflict with any provision of this MOU, the Union will be advised of such proposed accommodation. Upon request, the District will meet and confer with the Union on the impact of such accommodation. If the District and the Union do not reach agreement, the District may implement the accommodation if required by law without further negotiations. Nothing in this MOU shall preclude the District from taking actions necessary to comply with the requirements of ADA.

#### **SECTION 4 – SHOP STEWARDS / OFFICIAL REPRESENTATIVES**

**4.1 Attendance at Meetings.** Employees designated as shop stewards or official representatives of the Union shall be allowed to attend meetings held by District agencies during regular working hours on District time as follows:

- a. if their attendance is required by the District at a specific meeting, including meetings of the Board of Directors.
- b. if their attendance is sought by a hearing body or presentation of testimony or other reasons;
- c. if their attendance is required for a meeting necessary for settlement of grievances filed pursuant to Section 22 - Grievance Procedure of this MOU and scheduled at reasonable times agreeable to all parties;
- d. if they are designated as a shop steward, in which case they may utilize a reasonable time at each level of the proceedings to assist an employee to present a grievance provided the meetings are scheduled at reasonable times agreeable to all parties;
- e. if they are designated as spokesperson or representative of the Union and as such make representations or presentations at meetings or hearings on wages, salaries and working conditions provided in each case advance arrangements for time away from the employee's work station or assignment are made with the Fire Chief or his/her designee.
- f. to attend examination appeal board hearings to assist an employee in making a presentation.

**4.2 Union Representatives.** Official representatives of the Union shall be allowed time off on District time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the Fire Chief or other management representatives on matters within the scope of representation, provided that advance arrangements for the time away from the work station or assignment are made with the District.

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Shop stewards and union officials shall advise, as far in advance as possible, their immediate supervisor, or his/her designee, of their intent to engage in Union business. All requests for release time shall include the location, the estimated time needed and the general nature of the Union business involved (e.g., grievance meeting, Skelly hearing).

**4.3 Release Time For Training.** The Union may request release time for union designated stewards or officers to attend union-sponsored training programs. Requests for release time shall be provided in writing to the District at least fifteen (15) days in advance of the time requested. The District will reasonably consider each request and notify the affected employee whether such request is approved, within one (1) week of receipt.

## **SECTION 5 – SALARIES**

### **5.1 General Wages.**

- A. Longevity Pay. Effective July 1, 2008, employees with at ten (10) years of District service shall be eligible to receive a two and one-half percent (2.5%) longevity pay differential.
- B. Shift Differential. In the hours which qualify for shift differential, employees shall receive five percent (5%) above their base salary rate. To qualify for shift differential, an employee must have a regularly assigned daily work schedule which requires completion of more than one and one-half (1-1/2) hours over the normal actual working time;
- C. Bilingual Pay. A salary differential of one-hundred dollars (\$100.00) per month shall be paid incumbents of positions requiring bilingual proficiency as designated by the District. Said differential shall be prorated for employees working less than full time. Designation of positions for which bilingual proficiency is required is the sole prerogative of the District. The Union shall be notified when such designations are made.

**5.2 Entrance Salary.** New employees shall generally be appointed at the minimum step of the salary range established for the particular class of position to which the appointment is made. However, the appointing authority may fill a particular position at a step above the minimum of the range.

### **5.3 Anniversary Dates.**

- A. New Employees. The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) months service provided however, if an employee began work on the first regularly scheduled workday of the month the anniversary date is the first day of the calendar month when the employee successfully completes six (6) months service.
- B. Promotions. The anniversary date of a promoted employee is determined as for a new employee in Subsection 5.3.A above.
- C. Demotions. The anniversary of a demoted employee is the first day of the calendar month after the calendar month when the demotion was effective.

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- D. Transfer, Reallocation and Reclassification. The anniversary date of an employee who is transferred to another position or one whose position has been reallocated or reclassified to a class allocated to the same salary range or to a salary range which is within five percent (5%) of the top step of the previous classification, remains unchanged.
- E. Reemployments. The anniversary of an employee appointed from a reemployment list to the first step of the applicable salary range and not required to serve a probation period is determined in the same way as the anniversary date is determined for a new employee who is appointed the same date, classification and step and who then successfully completes the required probationary period.

**5.4 Increments Within Range**. The performance of each employee, except those of employees already at the maximum salary step of the appropriate salary range, shall be reviewed on the anniversary date as set forth in Section 5.3 to determine whether the salary of the employee shall be advanced to the next higher step in the salary range. Advancement shall be granted on the affirmative recommendation of the appointing authority, based on satisfactory performance by the employee. The appointing authority may recommend denial of the increment or denial subject to one additional review at some specified date before the next anniversary, such date to be set at the time the original report is returned. This decision may be appealed through the Grievance Procedure.

Except as herein provided, increments within range shall not be granted more frequently than once a year. . In case an appointing authority recommends denial of the within range increment on some particular anniversary date, but recommends a special salary review at some date before the next anniversary the special salary review shall not affect the regular salary review on the next anniversary date. Nothing herein shall be construed to make the granting of increments mandatory on the District. If the District verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.

**5.5 Part-Time Compensation**. A part-time employee shall be paid a monthly salary in the same ratio to the full time monthly rate to which the employee would be entitled as a full time employee under the provisions of this Section 5 as the number of hours per week in the employee's part-time work schedule bears to the number of hours in the full time work schedule of the District.

**5.6 Compensation for Portion of Month and Intermittent Compensation**. Any employee who works less than any full calendar month, except when on earned vacation or authorized sick leave, shall receive as compensation for services an amount which is in the same ratio to the established monthly rate as the number of days worked is to the actual working days in such employee's normal work schedule for the particular month; but if the employment is intermittent, compensation shall be on an hourly basis, which is calculated on the number of hours in the month worked plus five percent (5%) above the salary step earned.

**5.7 Position Reclassification**. An employee who is an incumbent of a position which is reclassified to a class which is allocated to the same range of the basic salary schedule as is the class of the position before it was reclassified, shall be paid at the same step of the range as the employee received under the previous classification.

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An incumbent of a position which is reclassified to a class which is allocated to a lower range of the basic salary schedule shall continue to receive the same salary as before the reclassification, but if such salary is greater than the maximum of the range of the class to which the position has been reclassified, the salary of the incumbent shall be reduced to the maximum salary for the new classification. The salary of an incumbent of a position which is reclassified to a class which is allocated to a range of the basic salary schedule greater than the range of the class of the position before it was reclassified shall be governed by the provisions of Section 5.9 - Salary on Promotion.

**5.8 Salary Reallocation & Salary on Reallocation**

- A. In a general salary increase or decrease, an employee in a class which is reallocated to a salary range above or below that to which it was previously allocated, when the number of steps remain the same, shall be compensated at the same step in the new salary range the employee was receiving in the range to which the class was previously allocated. If the reallocation is from one salary range with more steps to a range with fewer steps or vice versa, the employee shall be compensated at the step on the new range which is in the same percentage ratio to the top step of the new range as was the salary received before reallocation to the top step of the old range, but in no case shall any employee be compensated at less than the first step of the range to which the class is allocated.
- B. In the event that a classification is reallocated from a salary range with more steps to a salary range with fewer steps on the salary schedule, apart from the general salary increase or decrease described in Section 5.8.A above, each incumbent of a position in the reallocated class shall be placed upon the step of the new range which equals the rate of pay received before the reallocation. In the event that the steps in the new range do not contain the same rates as the old range, each incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range, or if the new range does not contain a higher step, at the step which is next lower than the salary received in the old range.
- C. In the event an employee is in a position which is reallocated to a different class which is allocated to a salary range the same as, or above or below the salary range of the employee's previous class, the incumbent shall be placed at the step in the new class which equals the rate of pay received before reallocation. In the event that the steps in the range for the new class do not contain the same rates as the range for the old class, the incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the incumbent shall be placed at the step which is next lower than the salary received in the old range.

**5.9 Salary on Promotion** Any employee who is appointed to a position of a class allocated to a higher salary range than the class previously occupied shall receive the salary in the new salary range which is next higher than the rate received before promotion. In the event this increase is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is at least five percent (5%) greater than the next higher step; provided, however, that the next step shall not exceed the maximum salary for the higher class. In the event of the appointment of a laid off employee from the layoff list to the class from which the employee was laid off, the employee shall be appointed at the step which the employee had formerly attained in the higher class unless such step results in a decrease in which case the employee is appointed to the next higher step. If however, the

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employee is being appointed into a class allocated to a higher salary range than the class from which the employee was laid off, the salary will be calculated from the highest step the employee achieved prior to layoff, or from the employee's current step, whichever is higher.

**5.10 Salary on Involuntary Demotion.** Any employee who is demoted, except as provided under Section 5.11, shall have his/her salary reduced to the monthly salary step in the range for the class of position to which he/she has been demoted next lower than the salary received before demotion. In the event this decrease is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is five percent (5%) less than the next lower step; provided, however, that the next step shall not be less than the minimum salary for the lower class.

Whenever the demotion is the result of layoff, cancellation of positions or displacement by another employee with greater seniority rights, the salary of the demoted employee shall be that step on the salary range which he/she would have achieved had he/she been continuously in the position to which he/she has been demoted, all within-range increments having been granted.

**5.11 Salary on Voluntary Demotion.** Whenever any employee voluntarily demotes to a position in a class having a salary range lower than that of the class from which he or she demotes, his or her salary shall remain the same if the steps in his or her new (demoted) salary range permit, and if not, the new salary shall be set at the step next below former salary.

**5.12 Pay for Work in Higher Classification.** When an employee in a regular position is required to work in a classification for which the compensation is greater than that to which the employee is regularly assigned, the employee shall receive compensation for such work at the rate of pay established for the higher classification pursuant to Subsection 5.9 – Salary on Promotion , at the start of the second full day in the assignment, under the following conditions. Payment shall be made retroactive after completing the first forty (40) consecutive hours worked in the higher classification.

- a. The employee is assigned to a program, service, or activity established by the Board of S Directors which is reflected in an authorized position which has been classified and assigned to the Salary Schedule.
- b. The nature of the District assignment is such that the employee in the lower classification performs a majority of the duties and responsibilities of the position of the higher classification.
- c. Employee selected for the assignment will normally be expected to meet the minimum qualifications for the higher classification.
- d. The County District shall make reasonable efforts to offer out of class assignments to all interested employees on a voluntary basis. Pay for work in a higher classification shall not be utilized as a substitute for regular promotional procedures provided in this MOU.
- e. Any incentives (e.g., the education incentive) and special differentials (e.g., bilingual differential) accruing to the employee in his/her regular position shall continue.

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- f. During the period of work for higher pay in a higher classification, an employee will retain his/her regular classification, and anniversary and salary review dates will be determined by time in that classification; except that if the period of work for higher pay in a higher classification exceeds one year continuous employment, the employee, upon satisfactory performance in the higher classification, shall be eligible for a salary review in that class on his/her next anniversary date. Notwithstanding any other salary regulations, the salary step placement of employees appointed to the higher class immediately following termination of the assignment shall remain unchanged.
  - g. Allowable overtime pay and shift differential will be paid on the basis of the rate of pay for the higher class.

**5.13 Deferred Compensation Plan – Special Benefit for Hires after January 1, 2010.**

Commencing April 1, 2010 and for the duration of this Agreement, the District will contribute one hundred fifty dollars (\$150) per month to an employee's Deferred Compensation Account or other designated tax qualified savings vehicle, for employees who meet all of the following qualifications:

1. The employee was first hired by the District on or after January 1, 2010 and,
2. The employee is a regular full-time or regular part-time employee regularly scheduled to work at least twenty (20) hours per week and has been so employed for at least ninety (90) calendar days; and,
3. The employee defers a minimum of twenty-five dollars (\$25) per month to the Deferred Compensation Plan or other designated tax qualified savings vehicle; and,
4. The employee has completed, signed, and submitted to the District, the required enrollment form for the account, e.g., the Enrollment Form 457(b).
5. The annual maximum contribution as defined under the relevant Internal Revenue Code provision has not been exceeded for the employee's account for the calendar year.

Employees who discontinue deferral or who defer less than the amount required by this provision for a period of one (1) month or more will no longer be eligible to receive the District contribution. To re-establish eligibility, employees must resume deferring the amount required by this provision.

No amount deferred by the employee or contributed by the District in accordance with this provision will count towards the "Base Contribution Amount" or the "Monthly Base Contribution Amount for Maintaining Program Eligibility" required for the Deferred Compensation Incentive in any other provision in this Agreement. No amount deferred by the employee or contributed by the District in accordance with any other provision in this Agreement will count toward the minimum required deferral required by this provision. The District's contribution amount in accordance with this provision will be in addition to the District contribution amount for which the employee may be eligible in accordance with any other provision in this contract.

Both the employee deferral and the District contribution to the Deferred Compensation Plan under this provision, as well as any amounts deferred or contributed to the Deferred Compensation Plan in

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accordance with any other provision of this contract, will be added together for the purpose of ensuring that the annual Plan maximum contributions as defined under IRS Code Section 457(b), or other tax qualified designated savings vehicle, are not exceeded.

**5.14 Payment.** On the tenth (10th) day of each month, the Auditor will draw a warrant upon the Treasurer in favor of each employee for the amount of salary due the employee for the preceding month; provided, however, that each employee (except those paid on an hourly rate) may choose to receive an advance on the employee's monthly salary, in which case the Auditor shall, on the twenty-fifth (25th) day of each month, draw his/her warrant upon the Treasurer in favor of such employee.

The advance shall be in an amount equal to one-third (1/3) or less, at the employee's option, of the employee's basic salary of the previous month except that it shall not exceed the amount of the previous month's basic salary less all requested or required deductions.

An election to receive or discontinue an advance shall not be made more than twice in any calendar year or during the first month of employment by filing forms prepared by the Auditor-Controller.

Each election shall become effective on the first day of the month following the deadline for filing the notice and shall remain effective until revoked.

In the case of an election made pursuant to this Section, all required or requested deductions from salary shall be taken from the second installment, which is payable on the tenth (10th) day of the following month.

Employee pay warrants shall be delivered to a work place designated by the District by noon on the 10<sup>th</sup> and 25<sup>th</sup> of each month. Should the 10<sup>th</sup> or 25<sup>th</sup> fall on Saturday, or Sunday, or a holiday, pay warrants will be delivered by noon on the preceding District workday.

**5.15 Pay Warrant Errors.** If an employee receives a pay warrant which has an error in the amount of compensation to be received and a new warrant issued within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays from the time the Department is made aware of and verifies that the pay warrant is in error.

Pay errors found in employee pay shall be corrected as soon as possible as to current pay rate but that no recovery of either overpayments or underpayments to an employee shall be made retroactively except for the two (2) year period immediately preceding discovery of the pay error. This provision shall apply regardless of whether the error was made by the employee, the appointing authority or designee, or the Auditor-Controller or designee.

Recovery of fraudulently accrued over or underpayments are excluded from this section for both parties.

When the District notifies an employee of an overpayment and proposed repayment schedule and the employee wishes to meet with the District, a meeting will be held at which time a repayment schedule shall be determined. If requested by the employee, a Union representative may be present at a meeting with management to discuss a repayment schedule in the case of overpayments to the employee.

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**5.16 Compensation Complaints.** All complaints involving or concerning the payment of compensation shall be filed in writing with the District. Only complaints which allege that employees are not being compensated in accordance with the provisions of this MOU shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process, if not detailed in the MOU which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than two (2) years from the date upon which the complaint was filed.

## **SECTION 6 – DAYS AND HOURS OF WORK**

### **6.1 Definitions.**

**A. Regular Work Schedule.** A regular work schedule is eight (8) hours per day, Monday through Friday, inclusive, for a total of forty (40) hours per week.

**B. Alternate Work Schedule.** An alternate work schedule is any work schedule where an employee is regularly scheduled to work five (5) days per week, but the employee's regularly scheduled two (2) days off are NOT Saturday and Sunday.

## **SECTION 7 – OVERTIME AND COMPENSATORY TIME**

**7.1 Overtime.** Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day. All overtime shall be compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and other special differentials).

Overtime for regular employees is earned and credited in a minimum of one-half hour increments and is compensated by either pay or compensatory time off.

**7.2 Compensatory Time.** The following provisions shall apply:

- a. Employees may periodically elect to accrue compensatory time off in lieu of overtime pay. Eligible employees must notify the District of their intention to accrue compensatory time off or to receive overtime pay.
- b. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- c. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty (80) hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.

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- d. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in c. above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.
  - e. Employees may not use more than one hundred twenty (120) hours of compensatory time off in any fiscal year period (July 1 - June 30).

**7.3 Fair Labor Standards Act Provisions.** The Fair Labor Standards Act, as amended, may govern certain terms and conditions of the employment of employees covered by this MOU. It is anticipated that compliance with the Act may require changes in some of the District policies and practices currently in effect or agreed upon. If it is determined by the District that certain working conditions, including but not limited to work schedules, hours of work, method of computing overtime, overtime pay, and compensatory time off entitlements or use, must be changed to conform with the Fair Labor Standards Act, such terms and conditions of employment shall not be controlled by this MOU but shall be subject to modification by the District to conform to the Federal Law without further meeting and conferring. The District shall notify the Union and will meet and confer with said organization regarding the implementation of such modifications.

#### **SECTION 8 – CALL BACK TIME/ ON-CALL DUTY**

- A. Any employee who is called back to duty shall be paid at the appropriate rate for the actual time worked plus one (1) hour. Such employee called back shall be paid a minimum of two (2) hours at the appropriate rate for each call back.

#### **SECTION 9 – SENIORITY, WORKFORCE REDUCTION, LAYOFF, & REASSIGNMENT**

##### **9.1 Workforce Reduction.**

In the event that funding reductions or shortfalls in funding occur or are expected, which may result in layoffs, the District will notify the union and take the following actions:

- a. Identify the classification(s) in which position reductions may be required due to funding reductions or shortfalls.
- b. Advise employees in those classifications that position reductions may occur in their classifications.
- c. Accept voluntary leaves of absence from employees in those classifications which do not appear to be potentially impacted by possible position reductions when such leaves can be accommodated by the District.
- d. Consider employee requests to reduce their position hours from full time to part time to alleviate the impact of the potential layoffs.
- e. Approve requests for reduction in hours and voluntary demotions to vacant, funded positions in classes not scheduled for layoffs within the District.

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## 9.2 Separation Through Layoff.

- A. Grounds for Layoff. Any employee(s) having regular status may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Directors deems sufficient for abolishing the position(s).
- B. Order of Layoff. The order of layoff shall be based on inverse seniority in the class of positions, the employee with least seniority being laid off first and so on.
- C. Layoff By Displacement.
1. In the Same Class. A laid off regular full time employee may displace an employee having less seniority in the same class who occupies a regular part-time position, the least senior employee being displaced first.
  2. In the Same Level or Lower Class. A laid off or displaced employee who had achieved regular status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace in the class of an employee having less seniority; the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.
- D. Particular Rules on Displacing.
1. Regular part-time employees may displace only employees holding regular positions of the same type respectively.
  2. A regular full time employee may displace any part-time employee with less seniority 1) in the same class or, 2) in a class of the same or lower salary level if no full time employee in a class at the same or lower salary level has less seniority than the displacing employees.
  3. Former regular full time employees who have voluntarily become regular part-time employees for the purpose of reducing the impact of a proposed layoff with the written approval of the Fire Chief or designee retain their regular full time employee seniority rights for layoff purposes only and may in a later layoff displace a full time employee with less seniority as provided in these rules.
- E. Seniority. An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff.

Service for layoff and displacement purposes includes only the employee's last continuous regular District employment. Periods of separation may not be bridged to extend such service unless the separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a regular position within the period of layoff eligibility.

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Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous regular District employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the District in regular employment. Any remaining ties shall be broken by random selection among the employees involved.

- F. Eligibility for Layoff List. Whenever any person who has regular status is laid off, has been displaced, has been demoted by displacement or has voluntarily demoted in lieu of layoff or displacement, or has transferred in lieu of layoff or displacement, the person's name shall be placed on the layoff list for the class of positions from which that person has been removed.
- G. Order of Names on Layoff. First, layoff lists shall contain the names of persons laid off, displaced, or demoted as a result of a layoff or displacement, or who have voluntarily demoted or who voluntarily reduced their work hours in lieu of layoff or displacement. Names shall be listed in order of layoff seniority in the class from which laid off, displaced or demoted or who voluntarily reduced their work hours on the date of layoff, the most senior person listed first. In case of ties in seniority, the seniority rules shall apply
- H. Duration of Layoff & Reemployment Rights. The name of any person granted reemployment privileges shall continue on the layoff list for a period of two (2) years. Persons placed on layoff lists shall continue on the appropriate list for a period of four (4) years.
- I. Persons Employed From Layoff Lists. The appointing authority shall appoint the eligible highest on the layoff list. A person employed from a layoff list shall be appointed at the same step of that salary range the employee held on the day of layoff.
- J. Removal of Names From Reemployment & Layoff Lists. The District may remove the name of any eligible from a reemployment or layoff list for any reason listed below:

On evidence that the eligible cannot be located by postal authorities.

- 2. On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.
- 3. If an offer of regular appointment to the class for which the eligible list was established have been declined by the eligible.
- 4. If the eligible fails to respond to the District within ten (10) days to written notice of certification mailed to the person's last known address.

If the person on the reemployment or layoff list is appointed to another position in the same or lower classification, the name of the person shall be removed. However, if the first regular appointment of a person on a layoff list is to a lower class which has a top step salary lower than the top step of the class from which the person was laid off, the name of the person shall not be removed from the layoff list. Any subsequent appointment of such person from the layoff list shall result in removal of that person's name.

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K. Removal of Names from Reemployment List. The District may remove the name of any eligible from a reemployment list if the eligible fails to respond within ten (10) days to a written notice of certification mailed to the person's last known address.

9.3 **Notice.** The District will give employees scheduled for layoff at least ten (10) work days notice prior to their last day of employment.

## **SECTION 10 – HOLIDAYS**

10.1 **Holidays Observed.** The District will observe the following holidays:

- A. January 1st, known as New Year's Day  
Third Monday in January known as Dr. Martin Luther King, Jr. Day  
Third Monday in February, known as Presidents Day  
The last Monday in May, known as Memorial Day  
July 4th known as Independence Day  
First Monday in September, known as Labor Day  
November 11th, known as Veterans Day  
Fourth Thursday in November, known as Thanksgiving Day  
The Friday after Thanksgiving Day  
December 25th, known as Christmas Day

Such other days as the Board of Directors may designate as holidays.

- B. Each employee will accrue two (2) hours of personal holiday credit per month. Such personal holiday time may be taken in increments of one-tenth hour (6 minutes), and preference of personal holidays will be given to employees according to their seniority in their department as reasonably as possible. No employee may accrue more than forty (40) hours of personal holiday credit. On separation from District service, an employee shall be paid for any unused personal holiday credits at the employee's then current pay rate.

### 10.2 **Holiday is NOT Worked.**

- A. **Holidays Observed – Full-Time Employees.** Full-time employees on regular and alternate work schedules are entitled to observe a holiday (eight (8) hours off), without a reduction in pay, whenever a holiday is observed by the District. Any holiday observed by the District that falls on a Saturday is observed on the preceding Friday and any holiday that falls on a Sunday is observed on the following Monday.

- B. **Holidays Observed – Part-Time Employees.** Part-time employees are entitled to observe a holiday (day off work) in the same ratio as the number of hours the part time employee's weekly schedule bears to forty (40) hours.

10.3 **Holiday is WORKED and Holiday Falls on Regularly Scheduled Work Day.** When a full time employee works on a holiday that falls on the employee's regularly scheduled work day, the employee is entitled to receive his/her regular salary. The employee is also entitled to receive

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holiday pay at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) or holiday compensation time at the same rate, for all hours worked up to a maximum of eight (8) hours. The employee is also entitled to receive overtime pay or overtime compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday beyond eight hours, but only if the employee was required to work on the holiday due to an emergency, except as provided in Section 7.1 above.

**10.4 Automated Time Keeping – Re-opener.** This agreement may be re-opened at the request of either party for the purpose of meeting and conferring regarding the establishment of an automated time keeping system.

## **SECTION 11 – VACATION LEAVE**

**11.1 Vacation Allowance.** Employees in permanent positions are entitled to vacation with pay. Accrual is based upon straight time hours of working time per calendar month of service and begins on the date of appointment to a permanent position. Increased accruals begin on the first of the month following the month in which the employee qualifies. Accrual for portions of a month shall be in minimum amounts of one (1) hour calculated on the same basis as for partial month compensation pursuant to Section 5.6 of this MOU. Vacation credits may be taken in 1/10 hour (6 minute) increments but may not be taken during the first six (6) months of employment (not necessarily synonymous with probationary status) except where sick leave has been exhausted.

**11.2 Vacation Allowance for Separated Employees.** On separation from District service, an employee shall be paid for any unused vacation credits at the employee's then current pay rate.

### **11.3 Vacation Accrual Rates.**

<b><u>Length of Service</u></b>	<b><u>Monthly Accrual Hours</u></b>	<b><u>Maximum Cumulative Hours</u></b>
Under 15 years	10	240
15 through 19 years	13-1/3	320
20 through 24 years	16-2/3	400
25 through 29 years	20	480
30 years and up	23-1/3	560

**11.4 Prorated Accruals.** Employees in regular part-time position shall accrue vacation benefits on a prorated basis

**11.5 Accrual During Leave Without Pay.** No employee who has been granted a leave without pay or unpaid military leave shall accrue any vacation credit during the time of such leave, nor shall an employee who is absent without pay accrue vacation credit during the absence.

**11.6 Vacation Leave on Reemployment from a Layoff List.** Employees with six (6) months or more service in a regular position prior to their layoff and who are employed from a layoff list shall be considered as having completed six (6) months tenure in a regular position for the purpose of vacation leave.

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## **SECTION 12 – SICK LEAVE**

**12.1 Purpose of Sick Leave.** The primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. It is a benefit extended by the District and may be used only as authorized; it is not paid time off which employees may use for personal activities.

**12.2 Credits To and Charges Against Sick Leave.** Sick leave credits accrue at the rate of eight (8) working hours credit for each completed month of service. Employees who work a portion of a month are entitled to a pro rata share of the monthly sick leave credit computed on the same basis as is partial month compensation.

Credits to and charges against sick leave are made in minimum amounts of one-tenth hour (6 minute) increments.

Unused sick leave credits accumulate from year to year. When an employee is separated other than through retirement, accumulated sick leave credits shall be canceled, unless the separation results from layoff, in which case the accumulated credits shall be restored if reemployed in a regular position within the period of lay off eligibility. As of the date of retirement, an employee's accumulated sick leave is converted to retirement on the basis of one day of retirement service credit for each day of accumulated sick leave credit.

**12.3 Policies Governing the Use of Paid Sick Leave.** As indicated above, the primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. The following definitions apply:

**Immediate Family:** Includes only the spouse, son, stepson, daughter, stepdaughter, father, stepfather, mother, stepmother, brother, sister, grandparent, grandchild, niece, nephew, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, foster children, aunt, uncle, cousin, stepbrother, stepsister, or domestic partner of an employee and/or includes any other person for whom the employee is the legal guardian or conservator, or any person who is claimed as a "dependent" for IRS reporting purposes by the employee.

**Condition/Reason:** With respect to necessary verbal contacts and confirmations which occur between the District and the employee when sick leave is requested or verified, a brief statement in non-technical terms from the employee regarding inability to work due to injury or illness is sufficient.

Accumulated paid sick leave credits may be used, subject to appointing authority approval, by an employee in pay status, but only in the following instances:

- A. Temporary Illness or Injury of an Employee. Paid sick leave credits may be used when the employee is off work because of a temporary illness or injury.
- B. Permanent Disability Sick Leave. Permanent disability means the employee suffers from a disabling physical injury or illness and is thereby prevented from engaging in any District occupation for which the employee is qualified by reason of education, training or experience. Sick leave may be used by permanently disabled employees until all accruals of the employee

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have been exhausted or until the employee is retired by the Retirement Board, subject to the following conditions:

1. An application for retirement due to disability has been filed with the Retirement Board.
  2. Satisfactory medical evidence of such disability is received by the appointing authority within thirty (30) days of the start of use of sick leave for permanent disability.
  3. The appointing authority may review medical evidence and order further examination as deemed necessary, and may terminate use of sick leave when such further examination demonstrates that the employee is not disabled, or when the appointing authority determines that the medical evidence submitted by the employee is insufficient, or where the above conditions have not been met.
- C. Communicable Disease. An employee may use paid sick leave credits when under a physician's order to remain secluded due to exposure to a communicable disease.
- D. Sick Leave Utilization for Pregnancy Disability. Employees whose disability is caused or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery therefrom, shall be allowed to utilize sick leave credit to the maximum accrued by such employee during the period of such disability under the conditions set forth below:
1. Application for such leave must be made by the employee to the appointing authority accompanied by a written statement of disability from the employee's attending physician. The statement must address itself to the employee's general physical condition having considered the nature of the work performed by the employee, and it must indicate the date of the commencement of the disability as well as the date the physician anticipates the disability to terminate.
  2. If an employee does not apply for leave and the appointing authority believes that the employee is not able to properly perform her work or that her general health is impaired due to disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery therefrom the employee shall be required to undergo a physical examination by a physician selected by the District. Should the medical report so recommend, a mandatory leave shall be imposed upon the employee for the duration of the disability.
  3. Sick leave may not be utilized after the employee has been released from the hospital unless the employee has provided the District with a written statement from her attending physician stating that her disability continues and the projected dates of the employee's recovery from such disability.
- E. Medical and Dental Appointments. An employee may use paid sick leave credits:
- F. For working time used in keeping medical and dental appointments for the employee's own care; and
- G. For working time used by an employee for pre-scheduled medical and dental appointments for an immediate family member.

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- H. **Emergency Care of Family.** An employee may use paid sick leave credits for working time used in cases of illness or injury to an immediate family member.
  - I. **Death of Family Member.** An employee may use paid sick leave credits for working time used because of a death in the employee's immediate family or of the employee's domestic partner, but this shall not exceed three (3) working days, plus up to two (2) days of work time for necessary travel. Use of additional accruals including sick leave, when appropriate, may be authorized in conjunction with the bereavement leave at the discretion of the appointing authority.
  - J. **Legal Adoption of a Child.** Paid sick leave credits may be used by an employee upon adoption of the child.
  - K. **Accumulated paid sick leave credits may not be used in the following situations:**
    - 1. **Vacation.** Paid sick leave credits may not be used for an employee's illness or injury which occurs while he is on vacation but the District may authorize it when extenuating circumstances exist and the appointing authority approves.
    - 2. **Not in Pay Status.** Paid sick leave credits may not be used when the employee would otherwise be eligible to use paid sick leave credits but is not in pay status.

**12.4 Administration of Sick Leave.** The proper administration of sick leave is a responsibility of the employee and the District. The following procedures apply:

A. **Employee Responsibilities**

- 1. Employees are responsible for notifying the District of an absence prior to the commencement of their work shift or as soon thereafter as possible. Notification shall include the reason and possible duration of the absence.
- 2. Employees are responsible for keeping the District informed on a continuing basis of their condition and probable date of return to work.
- 3. Employees are responsible for obtaining advance approval from the District for the scheduled time of pre-arranged personal or family medical and dental appointments.
- 4. Employees are encouraged to keep the District advised of (1) a current telephone number to which sick leave related inquiries may be directed, and (2) any condition(s) and/or restriction(s) that may reasonably be imposed regarding specific locations and/or persons the District may contact to verify the employee's sick leave.

B. **District Responsibilities.** The use of sick leave may properly be denied if these procedures are not followed. Abuse of sick leave on the part of the employee is cause for disciplinary action.

- 1. District approval of sick leave is a certification of the legitimacy of the sick leave claim. The District may require medical verification for an absence of three (3) or more

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consecutive working days. The District may also require medical verification for absences of less than three (3) consecutive working days for probable cause if the employee had been notified in advance in writing that such verification was necessary. Inquiries may be made in the following ways:

2. Calling the employee's residence telephone number or other contact telephone number provided by the employee if telephone notification was not made in accordance with departmental sick leave call-in guidelines. These inquiries shall be subject to any restrictions imposed by the employee under Section 12.a.4
3. Obtaining the employee's signature on the Absence/Overtime Record or on another form established for that purpose, as employee certification of the legitimacy of the claim.
4. Obtaining the employee's written statement of explanation regarding the sick leave claim.
5. Requiring the employee to obtain a physician's certificate or verification of the employee's illness, date(s) the employee was incapacitated, and the employee's ability to return to work, as specified above.
6. In absences of an extended nature, requiring the employee to obtain from their physician a statement of progress and anticipated date on which the employee will be able to return to work, as specified above.

The District is responsible for establishing timekeeping procedures which will insure the submission of a time card covering each employee absence.

## **12.5 Disability.**

- A. An employee physically or mentally incapacitated for the performance of duty is subject to dismissal, suspension or demotion, subject to the County Employees Retirement Law of 1937. An appointing authority after giving notice may place an employee on leave if the appointing authority has filed an application for disability retirement for the employee, or whom the appointing authority believes to be temporarily or permanently physically or mentally incapacitated from the performance of the employee's duties.
- B. An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee's performance of duty, may order the employee to undergo at District expense and on the employee's paid time, a physical, medical examination by a licensed physician and/or psychiatric examination by a licensed physician or psychologist, and receive a report of the findings on such examination. If the examining physician or psychologist recommends that treatment for physical or mental health problems, including leave, are in the best interests of the employee or the District in relation to the employee overcoming any disability and/or performing his or her duties the appointing authority may direct the employee to take such leave and/or undergo such treatment.

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- C. Leave due to temporary or permanent disability shall be without prejudice to the employee's right to use sick leave, vacation, or any other benefit to which the employee is entitled other than regular salary. The District may order lost pay restored for good cause and subject to the employee's duty to mitigate damages.
- D. Before an employee returns to work from any absence for illness or injury, other leave of absence or disability leave, exceeding two (2) weeks in duration, the appointing authority may order the employee to undergo at District expense a physical, medical, and/or psychiatric examination by a licensed physician, and may consider a report of the findings on such examination. If the report shows that such employee is physically or mentally incapacitated for the performance of duty, the appointing authority may take such action as he deems necessary in accordance with appropriate provisions of this MOU.
- E. Before an employee is placed on an unpaid leave of absence or suspended because of physical or mental incapacity under (A) or (B) above, the employee shall be given notice of the proposed leave of absence or suspension by letter or memorandum, delivered personally or by certified mail, containing the following:
1. a statement of the leave of absence or suspension proposed;
  2. the proposed dates or duration of the leave or suspension which may be indeterminate until a certain physical or mental health condition has been attained by the employee;
  3. a statement of the basis upon which the action is being taken
  4. a statement that the employee may review the materials upon which the action is taken;
  5. a statement that the employee has until a specified date (not less than seven (7) work days from personal delivery or mailing of the notice) to respond to the appointing authority orally or in writing.
- F. Pending response to the notice the appointing authority for cause specified in writing may place the employee on a temporary leave of absence, with pay.
- G. The employee to whom the notice has been delivered or mailed shall have seven (7) work days to respond to the appointing authority either orally or in writing before the proposed action may be taken.
- H. After having complied with the notice requirements above, the appointing authority may order the leave of absence or suspension in writing stating specifically the basis upon which the action is being taken, delivering the order to the employee either personally or by certified mail, effective either upon personal delivery or deposit in the U.S. Postal Service.
- I. An employee who is placed on leave or suspended under this section may, within ten (10) calendar days after personal delivery or mailing to the employee of the order, appeal the order in writing through the District to Board of Directors. Alternatively, the employee may file a written election with the District waiving the employee's right to appeal to the Board in favor of appeal to a Disability Review Arbitrator.

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- J. In the event of an appeal either to the Board or the Disability Review Arbitrator, the employee has the burden of proof to show that either:
1. the physical or mental health condition cited by the appointing authority does not exist, or
  2. the physical or mental health condition does exist, but it is not sufficient to prevent, preclude, or impair the employee's performance of duty, or is not sufficient to endanger the health or safety of the employee, other employees, or the public.
- K. If the appeal is to the Board, the order and appeal shall be transmitted by the District to the Board for hearing. Medical reports submitted in evidence in such hearings shall remain confidential information and shall not be a part of the public record.
- L. If the appeal is to a Disability Review Arbitrator, the employee (and his representative) will meet with the District's representative to mutually select the Disability Review Arbitrator, who may be a de facto arbitrator, or a physician, or a rehabilitation specialist, or some other recognized specialist mutually selected by the parties. The arbitrator shall hear and review the evidence. The decision of the Disability Review Arbitrator shall be binding on both the District and the employee.

Scope of the Arbitrator's Review.

1. The arbitrator may affirm, modify or revoke the leave of absence or suspension.
  2. The arbitrator may make his decision based only on evidence submitted by the District and the employee.
  3. The arbitrator may order back pay or paid sick leave credits for any period of leave of absence or suspension if the leave or suspension is found not to be sustainable, subject to the employee's duty to mitigate damages.
  4. The arbitrator's fees and expenses shall be paid one-half by the District and one-half by the employee or employee's association.
- M. It is understood that the benefits specified in Section 12 – Sick Leave and Section 14 – Workers' Compensation, shall be coordinated with the rehabilitation program as determined by the labor-management committee.

**12.6 Accrual During Leave Without Pay.** No employee who has been granted a leave without pay or an unpaid military leave shall accrue any sick leave credits during the time of such leave nor shall an employee who is absent without pay accrue sick leave credits during the absence.

**12.7 Integration of State Disability Benefits with the District Sick Leave Benefit Program.** Employees eligible for State Disability benefits and sick leave benefits for any portion of disability

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shall be required to make application for both benefits. The State Disability benefits shall be returned to the District to be credited to the employee's sick leave balance on the following basis:

- a. Integration with State Disability is automatic and cannot be waived.
- b. The amount credited to the employee's sick leave balance shall be converted to sick leave hours by dividing the amount received from State Disability Insurance by the employee's straight time hourly rate, at the time of payment, as determined by the appropriate salary schedule for the employee's class of employment.
- c. If the employee is eligible for State Disability Insurance benefits, application must be made and the benefits returned to the District for sick leave credits so that the principle of integration is completed.
- d. In the event an employee is not eligible for sick leave credits from the District, there will be no integration and the employee shall not return State Disability Insurance benefits to the District.
- e. In the event an employee receives sick leave benefits for a portion of the disability period, State Disability benefits must be utilized to restore only those sick leave hours used during the period of disability.
- f. Restoration of sick leave balances shall be rounded to the nearest one-half (1/2) hour.
- g. In no instance will an employee be allowed to purchase sick leave not accrued.
- h. The County District will provide separate accounting for the purchase sick leave to insure that State Disability Insurance benefits are not taxable.

**12.8 Confidentiality of Information/Records.** Any use of employee medical records will be governed by the Confidentiality of Medical Information Act (Civil Code Sections 56 to 56.26).

### **SECTION 13 – STATE DISABILITY INSURANCE (SDI)**

Employees eligible for SDI benefits will be required to make application for SDI benefits and to have those benefits integrated with the use of their sick leave accruals.

**13.1 Procedures.** Employees with more than 1.2 hours of sick leave accruals at the beginning of the disability integration period must integrate their sick leave accrual usage with their SDI benefit to the maximum extent possible.

When employees have 1.2 hours or less of sick leave accruals at the beginning of the disability integration period, the District shall automatically use 0.1 hour of sick leave per month for the duration of their SDI benefit.

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When sick leave accruals are totally exhausted, integration with the SDI benefit terminates. An employee may use any other accruals without reference to or integration with the SDI benefit. When the SDI benefit is exhausted, sick leave integration terminates. Then the employee may use sick leave or other accruals.

Employees with no sick leave balance at the beginning of the disability integration period may use any other accruals without reference to or integration with the SDI benefit.

Employees whose SDI claims are denied must present a copy of their claim denial to their District. The District will then authorize use of unused sick leave and shall authorize the use of other accruals as appropriate.

Employees may contact the District, for assistance in resolving problems.

**13.2 Method of Integration.** Until an employee has a balance of 1.2 hours of sick leave, the employee's sick leave accrual charges while receiving SDI benefits shall be calculated each month.

The amount of sick leave charged each employee will be calculated in the following manner:

The percentage of base monthly salary not covered by the SDI benefit will be applied to the daily hours in the employee's schedule and that number of sick leave hours will be charged against the employee's sick leave accruals.

For purposes of integration with the SDI program, all full time employees' schedules will be converted to 8-hour/5-day weekly work schedules during the period of integration.

The formula for full time employees' sick leave integration charges is shown below:

- L =  $[(S-D) / S] \times 8$
- S = Employee Base Monthly Salary
- H = Estimated Highest Quarter (3-mos) Earnings [H = S x 3]
- W = Weekly SDI Benefit from State of California SDI Weekly Benefit Table
- C = Calendar Days in each Month
- D = Estimated Monthly SDI Benefit [D = (W) 7] x C]
- L = Sick Leave Charged per Day

Regular part-time, and those full time employees working a light/limited duty reduced schedule program shall have their sick leave integration adjusted accordingly.

**13.3 Definition.** "Base Monthly Salary" for purposes of sick leave integration is defined as the salary amount for the employee's step on the salary schedule for the employee's regular classification as shown in the "Salary" field on the On-Line Payroll Time Reporting System used by the District for payroll reporting purposes.

## **SECTION 14 – WORKERS' COMPENSATION**

A regular non-safety employee shall receive 75% of regular monthly salary during any period of compensable temporary disability not to exceed one year. If Workers' Compensation becomes taxable, the District agrees to restore the original benefit level (100% of monthly salary) and the parties shall meet and confer with respect to funding the increased cost.

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A. Waiting Period. There is a three (3) calendar day waiting period before Workers' Compensation benefits commence. If the injured worker loses any time on the day of injury, that day counts as day one (1) of the waiting period. If the injured worker does not lose time on the date of injury, the waiting period will be the first three (3) calendar days the employee does not work as a result of the injury. The time the employee is scheduled to work during this waiting period will be charged to the employee's sick leave and/or vacation accruals. In order to qualify for Workers' Compensation the employee must be under the care of a physician. Temporary compensation is payable on the first three (3) days of disability when the injury necessitates hospitalization, or when the disability exceeds fourteen (14) days.

B. Continuing Pay. Regular employees shall continue to receive the appropriate percent as outlined above of their regular monthly salary during any period of compensable temporary disability not to exceed one year. Payment of continuing pay and/or temporary disability compensation is made in accordance with Part 2, Article 3 of the Workers' Compensation Laws of California. "Compensable temporary disability absence" for the purpose of this Section, is any absence due to work connected disability which qualifies for temporary disability compensation as set forth in Part 2, Article 3 of the Workers' Compensation Laws of California.

When any disability becomes medically permanent and stationary and/or reaches maximum medical improvement, the salary provided in this Section shall terminate. No charge shall be made against sick leave or vacation for these salary payments. Sick leave and vacation rights shall not accrue for those periods during which continuing pay is received.

Employees shall be entitled to a maximum of one (1) year of continuing pay benefits for any one injury or illness.

C. Continuing pay begins at the same time that temporary Workers' Compensation benefits commence and continues until either the member is declared medically permanent/stationary and/or reaches maximum medical improvement, or until one (1) year of continuing pay, whichever comes first provided the employee remains in an active employed status. Continuing pay is automatically terminated on the date an employee is separated from District service by resignation, retirement, layoff, or the employee is no longer employed by the District. In these instances, employees will be paid Workers' Compensation benefits as prescribed by Workers' Compensation laws. All continuing pay will be cleared through the District.

Whenever an employee who has been injured on the job and has returned to work is required by an attending physician to leave work for treatment during working hours the employee shall be allowed time off up to three (3) hours for such treatment without loss of pay or benefits provided the employee notifies his/her supervisor of the appointment at least three (3) working days prior to the appointment or as soon as the employee becomes aware the appointment has been made. Said visits are to be scheduled contiguous to either the beginning or end of the scheduled work day whenever possible. This provision applies only to injuries/illnesses that have been accepted by the District as work related.

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- D. Full Pay Beyond One Year. If an injured employee remains eligible for temporary disability beyond one year, the employee's applicable salary will continue by integrating sick leave and/or vacation accruals with Workers' Compensation benefits. If salary integration is no longer available, Workers' Compensation benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.
- E. Rehabilitation Integration. An injured employee who is eligible for Workers' Compensation Rehabilitation Temporary Disability benefits and whose disability is medically permanent and stationary and/or reaches maximum medical improvement, will continue to receive his/her applicable salary by integrating sick leave and/or vacation accruals with Workers' Compensation Rehabilitation Temporary Disability benefits until those accruals are exhausted. Thereafter, the Rehabilitation Temporary Disability benefits will be paid directly to the employee.
- F. Health Insurance. The District contribution to the employee's group insurance plan(s) continues during the continuing pay period and during integration of sick leave or vacation with Workers' Compensation benefits.
- G. Method of Integration. An employee's sick leave and/or vacation charges shall be calculated as follows:

$$C = 8 [1 - (W \div S)]$$

C = Sick leave or vacation charge per day (in hours)  
W = Statutory Workers' Compensation for a month  
S = Monthly salary

## **SECTION 15 - LEAVE OF ABSENCE**

**15.1 Leave Without Pay**. Any employee who has regular status may be granted a leave of absence without pay upon written request, approved by the appointing authority; provided, however, that leaves for pregnancy, pregnancy disability, serious health conditions, and family care shall be granted in accordance with applicable state and federal law.

**15.2 General Administration - Leave of Absence**. Requests for leave without pay shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return.

- A. Leave without pay may be granted for any of the following reasons:
1. Illness or disability;
  2. pregnancy;
  3. parental;
  4. to take a course of study such as will increase the employee's usefulness on return to the position.
  5. for other reasons or circumstances acceptable to the appointing authority.

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- B. An employee must request family care leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the District within five (5) days of learning of the event by which the need for family care leave arises.
  - C. A leave without pay may be for a period not to exceed one (1) year, provided the appointing authority may extend such leave for additional periods. The procedure in granting extensions shall be the same as that in granting the original leave, provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.
  - D. Nevertheless, a leave of absence for the employee's serious health condition or for family care (FMLA) shall be granted to an employee who so requests it for up to eighteen (18) weeks during a "rolling" twelve (12) month period measured backward from the date the employee uses his/her FMLA leave in accordance with Section 15.5 below.
  - E. Whenever an employee who has been granted a leave without any pay desires to return before the expiration of such leave, the employee shall submit a request to the appointing authority in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the appointing authority. The District shall be notified promptly of such return.
  - F. Except in the case of leave of absence due to family care, pregnancy, pregnancy disability, illness, disability, or serious health condition, the decision of the appointing authority on granting or denying leave or early return from leave shall be subject to appeal to the District and not subject to appeal through the grievance procedure set forth in this MOU.

**15.3 Furlough Days Without Pay.** Subject to the prior written approval of the appointing authority, employees may elect to take furlough days or hours without pay (pre-authorized absence without pay), up to a maximum of fifteen (15) calendar days for any one period. Longer pre-authorized absences without pay are considered leaves of absence without pay. Employees who take furlough time shall have their compensation for the portion of the month worked computed in accord with Section 5.6 (Compensation for Portion of Month) of this MOU. Full time and part-time employees who take furlough time shall have their vacation, sick leave, floating holiday, and any other payroll computed accruals computed as though they had worked the furlough time. When computing vacation, sick leave, floating holiday, and other accrual credits for employees taking furlough time, this provision shall supersede Section 11.1, 12.1, 12.3, and 12.2 of this MOU regarding the computation of vacation, sick leave, floating holiday, and other accrual credits as regards furlough time only. For payroll purposes, furlough time (absence without pay with prior authorization of the appointing authority) shall be reported separately from other absences without pay to the District.

**15.4 Military Leave.** Any employee who is ordered to serve as a member of the State Militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard or any division thereof shall be granted a military leave in accordance with State and Federal statutes.

**15.5 Family Care Leave or Medical Leave.** Upon request to the appointing authority, in a "rolling" twelve (12) month period measured backward from the date the employee uses his/her FMLA leave,

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any employee who has permanent status shall be entitled to at least eighteen (18) weeks leave (less if so requested by the employee) for:

- A. medical leave of absence for the employee's own serious health condition which makes the employee unable to perform the functions of the employee's position; or
- B. family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee.
- C. The District's shall grant FMLA leave in accordance with the FMLA, CFRA and the Administrative Bulletins.

**15.6 Aggregate Use for Spouses.** In the situation where husband and wife are both employed by the District, the family care of medical leave entitlement based on the birth, adoption or foster care of a child is limited to an aggregate for both employees together of eighteen (18) weeks during a "rolling" twelve (12) month period measured backward from the date the employee uses his/her FMLA leave. Employees requesting family care leave are required to advise their appointing authority(ies) when their spouse is also employed by the District.

**15.7 Pregnancy Disability Leave.** Insofar as pregnancy disability leave is used under Section 12.3.d - Sick Leave Utilization for Pregnancy Disability, that time will not be considered a part of the eighteen (18) week family care leave period.

**15.8 Group Health Plan Coverage.** Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the District contribution by maintaining their employment in pay status as described in Section 12.3.d - Sick Leave Utilization for Pregnancy Disability. During the eighteen (18) weeks of an approved medical or family care leave under Section 15.5 above, the District will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under Section 15.9. In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage, either through payroll deduction or by paying the District directly.

**15.9 Leave Without Pay - Use of Accruals.**

- A. All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under Section 12.3 - Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and accruals may not be used, except when required by LTD Benefit Coordination or SDI/Sick Leave Integration or as provided in the sections below.

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- B. Family Care or Medical Leave (FMLA). During the eighteen (18) weeks of an approved medical or family care leave, if a portion of that leave will be on a leave of absence without pay, the employee will be *required* to use *at least* 0.1 hour of sick leave (if so entitled under Section 12.3 - Policies Governing the Use of Paid Sick Leave), vacation floating holiday, compensatory time off or other accruals or entitlements if such are available, although use of additional accruals is permitted under subsection A. above.
- C. Leave of Absence/Long Term Disability (LTD) Benefit Coordination. An eligible employee who files an LTD claim and concurrently takes a leave of absence without pay will be required to use accruals as provided in Section B herein during the eighteen (18) weeks entitlement period of a medical leave specified above. If an eligible employee continues beyond the eighteen (18) weeks entitlement period on a concurrent leave of absence/LTD claim, the employee may choose to maintain further pay status only as allowed under subsection A. herein.
- D. Sick leave accruals may not be used during any leave of absence, except as allowed under Section 12.3 - Policies Governing the Use of Paid Sick Leave.

**15.10 Leave of Absence Replacement and Reinstatement**. Any regular employee who requests reinstatement to the classification held by the employee at the time the employee was granted a leave of absence, shall be reinstated to a position in that classification and then only on the basis of seniority. In case of severance from service by reason of the reinstatement of a regular employee, the provisions of Section 9 - Seniority, Workforce Reduction, Layoff & Reassignment shall apply.

**15.11 Reinstatement From Family Care Medical Leave**. In the case of a family care or medical leave, an employee on a 5/40 schedule shall be reinstated to the same or comparable position if the return to work is after no more than ninety (90) work days of leave from the initial date of a continuous leave, including use of accruals, or within the equivalent on an alternate work schedule. A full time employee taking an intermittent or reduced work schedule leave shall be reinstated to the same or comparable position if the return to work on a full schedule is after no more than 720 hours, including use of accruals, of intermittent or reduced schedule leave. At the time the original leave is approved, the appointing authority shall notify the employee in writing of the final date to return to work, or the maximum number of hours of leave, in order to guarantee reinstatement to the same or comparable position. An employee on a schedule other than 5/40 shall have the time frame for reinstatement to the same or comparable position adjusted on a pro rata basis.

**15.12 Salary Review While on Leave of Absence**. The salary of an employee who is on leave of absence from a District position on any anniversary date and who has not been absent from the position on leave without pay more than six (6) months during the preceding year, shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

**15.13 Unauthorized Absence**. An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

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**15.14 Time Off to Vote.** Employees who do not have sufficient time outside of working hours to vote at a statewide election, may, without loss of pay, take off enough working time which will enable the employee to vote.

No more than two (2) hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift.

Any employee seeking time off to vote under the provisions of this Section, must submit a written request, at least two (2) working days in advance, to his or her immediate supervisor, stating the following: name, job classification, department, a statement "I am a registered voter", geographic location and address of the employee's polling place, amount of time off requested and whether it is to be at the beginning or end of the employee's regular workday, and a clear statement as to why the employee is unable to vote during the regular hours that the polls are open.

**15.15 Non-Exclusivity.** Other MOU language on this subject, not in conflict with this MOU, shall remain in effect.

## **SECTION 16 – RETIREMENT**

**16.1 Contribution.** Employees are responsible for the payment of one hundred percent (100%) of the employees' basic retirement benefit contributions determined annually by the Board of Retirement of the Contra Costa County Employees' Retirement Association without the District paying any part of the employees' contribution. Employees are also responsible for the payment of the employees' contributions to the retirement cost of living program as determined annually by the Board of Retirement, without the District paying any part of the employees' contributions. The District is responsible for one hundred percent (100%) of the employer's retirement contributions determined annually by the Board of Retirement.

## **SECTION 17 – HEALTH, LIFE & DENTAL CARE**

**17.1 Health Plan Coverages.** The District will provide the medical and dental coverage for employees regularly scheduled to work twenty (20) or more hours per week, and for their eligible family members, expressed in one of the Health Plan contracts and one of the Dental Plan contracts between the District and the following providers:

1. Contra Costa Health Plans (CCHP), Plan A
2. Contra Costa Health Plans (CCHP), Plan B
3. Kaiser Permanente Health Plan
4. Health Net HMO/EPO
5. Health Net PPO
6. Delta Dental
7. PMI Dental Care

Employee Co-pays for these plans are shown on Attachment E.

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## 17.2 County Health and Dental Plan Contribution Rates.

- A. December 31, 2009, the District will pay the monthly premium subsidies for employees and their eligible family members for the health and dental plans as shown in Attachment E. Through
- B. Premium Subsidy After December 31, 2009.
1. Plans other than CCHP A, CCHP B, Delta Dental/CCHP A and B and PMI Dental Care/CCHP A and B and Health Net PPO. Beginning on January 1, 2010, and for each calendar year thereafter, the District will pay a monthly premium subsidy for each health and each dental plan (other than CCHP health and coordinated dental plans and the Health Net PPO) listed in Attachment E that is equal to the actual dollar monthly premium subsidy that is paid by the District in 2009. If there is an increase in the premium charged by a health or dental plan for 2010, the District and the employees will each pay fifty percent (50%) of that portion of the premium increase charged by the health or dental plan that does not exceed eleven percent (11%) of the 2009 premium. If the premium increase for 2010 exceeds eleven percent (11%) of the 2009 premium charged by the health or dental plan, the District additionally will pay that portion of the premium increase that exceeds eleven percent (11%) of the 2009 premium. If there is an increase in the premium charged by a health or dental plan for 2011, the District and the employees will each pay fifty percent (50%) of that portion of the premium increase that does not exceed eleven percent (11%) of the 2010 premium. If the premium increase for 2011 exceeds eleven percent (11%) of the 2010 premium charged by the health or dental plan, the District additionally will pay that portion of the premium increase that exceeds eleven percent (11%) of the 2010 premium.
  2. CCHP A, CCHP B, Delta Dental/CCHP A and B, PMI Dental Care/CCHP A and B. Beginning on January 1, 2010, and for each calendar year thereafter, the District will pay a monthly premium subsidy for CCHP Plan A and the coordinated dental plans listed in Attachment E that is equal to ninety-three percent (93%) of the total monthly premium that is paid for the plan in 2010. Beginning on January 1, 2010, and for each calendar year thereafter, the District will pay a monthly premium subsidy for CCHP Plan B that is equal to eighty-seven percent (87%) of the total monthly premium that is paid for the plan in 2010. If there is an increase in the premium charged by a CCHP health and/or coordinated dental plan for 2011, the District and the employees will each pay fifty percent (50%) of that portion of the premium increase that does not exceed eleven percent (11%) of the 2010 premium charged by the CCHP health and/or coordinated dental plan. If the premium increase for 2011 exceeds eleven percent (11%) of the 2010 premium charged by the CCHP health and/or coordinated dental plan, the District additionally will pay that portion of the premium increase that exceeds eleven percent (11%) of the 2010 premium.
  3. Health Net PPO. Beginning on January 1, 2010, and for each calendar year thereafter, the District will pay a monthly premium subsidy for the Health Net PPO that is equal to the actual dollar monthly premium subsidy that is paid by the District in 2009. During the term of this agreement, if there are increases in the premium charged by the Health

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Net PPO plan, the District and the employees will each pay fifty percent (50%) of any premium increase above the 2009 premium.

4. After June 29, 2011, the District will pay a monthly premium subsidy for each health and/or dental plan that is equal to the actual dollar amount of the monthly premium subsidy that is paid by the District in the month of May, 2011. The amount of the District subsidy that is paid will thereafter be a set dollar amount and will not be a percentage of the premium charged by the health and/or dental plan.
- C. If the District contracts with a health and/or dental plan provider not listed in Attachment E, the amount of the premium subsidy that the District will pay to that health and/or dental plan provider for employees and their eligible family members shall not exceed the amount of the premium subsidy that the District would have paid to the former plan provider.
- D. In the event that the District premium subsidy amounts are greater than one hundred percent (100%) of the applicable premium of any health and/or dental plan, for any plan year, the District's contribution will not exceed one hundred percent (100%) of the applicable plan premium.

**17.3 CalPERS Public Employees' Medical and Hospital Care Act (PEMHCA).** During the term of this agreement, it is the intent of the District to contract with CalPERS Public Employees' Medical and Hospital Care Act (PEMHCA) to provide medical coverage for members of this bargaining unit.

If the District contracts with PEMHCA to provide this bargaining unit with medical benefits the District contribution shall equal the contribution that the District provides to the bargaining unit represented by IAFF Local 1230.

**17.4 Retirement Coverage.**

- A. Upon Retirement:
1. Upon retirement, eligible employees and their eligible family members may remain in their District health/dental plan, but without District paid life insurance coverage, if immediately before their proposed retirement the employees and dependents are either active subscribers to one of the District contracted health/dental plans or if while on authorized leave of absence without pay, they have retained continuous coverage during the leave period. The District will pay the health/dental plan monthly premium subsidies set forth in Section 17.2(a) for eligible retirees and their eligible family members until December 31, 2009. Beginning on January 1, 2010, the District will pay the same monthly premium subsidies for eligible retirees and their eligible family members as set forth in Section 17.2(b).
  2. Any person who becomes age 65 on or after January 1, 2010 and who is eligible for Medicare must immediately enroll in Medicare Parts A and B.
  3. For employees hired on or after January 1, 2010, and their eligible family members, no monthly premium subsidy will be paid by the District for any health and/or dental plan after they separate from District employment. However, any such eligible employee

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who retires under the Contra Costa County Employees' Retirement Association ("CCCERA") may retain continuous coverage of any county health or dental plan provided that: (i) he or she begins to receive a monthly retirement allowance from CCCERA within 120 days of separation from District employment and (ii) he or she pays the full premium cost under the chosen health and/or dental plan without any District premium subsidy.

- B. Employees Who File For Deferred Retirement: Employees, who resign and file for a deferred retirement and their eligible family members, may continue in their District group health and/or dental plan under the following conditions and limitations.
1. Health and dental coverage during the deferred retirement period is totally at the expense of the employee, without any District contributions.
  2. Life insurance coverage is not included.
  3. To continue health and dental coverage, the employee must:
    - a. be qualified for a deferred retirement under the 1937 Retirement Act provisions;
    - b. be an active member of a District group health and/or dental plan at the time of filing their deferred retirement application and elect to continue plan benefits;
    - c. be eligible for a monthly allowance from the Retirement System and in direct receipt of a monthly allowance within twenty-four (24) months of application for deferred retirement; and
    - d. file an election to defer retirement and to continue health benefits hereunder with the District Benefits Division within thirty (30) days before separation from District service.
  4. Deferred retirees who elect continued health benefits hereunder and their eligible family members may maintain continuous membership in their District health and/or dental plan group during the period of deferred retirement by paying the full premium for health and dental coverage on or before the 10<sup>th</sup> of each month, to the Contra Costa County Auditor-Controller. When the deferred retirees begin to receive retirement benefits, they will qualify for the same health and/or dental coverage pursuant to subsection (a) above, as similarly situated retirees who did not defer retirement.
  5. Deferred retirees may elect continued health benefits hereunder after retirement and may elect not to maintain participation in their District health and/or dental plan during their deferred retirement period. When they begin to receive retirement benefits, they will qualify for the same health and/or dental coverage pursuant to subsection (a), above, as similarly situated retirees who did not defer retirement, provided reinstatement to a District group health and/or dental plan will only occur following a three (3) full calendar month waiting period after the month in which their retirement allowance commences.

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6. Employees who elect deferred retirement will not be eligible in any event for District health and/or dental plan subvention unless the member draws a monthly retirement allowance within twenty-four (24) months after separation from District service.
  7. Deferred retirees and their eligible family members are required to meet the same eligibility provisions for retiree health/dental coverage, as similarly situated retirees who did not defer retirement.
- C. Employees Hired After December 31, 2006. Eligibility for Retiree Health Coverage: All employees hired after December 31, 2006 are eligible for retiree health/dental coverage pursuant to subsections (a) and (b), above, upon completion of fifteen (15) years of service as an employee of the District. For purposes of retiree health eligibility, one year of service is defined as one thousand (1,000) hours worked within one anniversary year. The existing method of crediting service while an employee is on an approved leave of absence will continue for the duration of this Agreement.
- D. Subject to the provisions of Section 17.4 subparts (a), (b), and (c) and upon retirement and for the term of this agreement, the following employees (and their eligible family members) are eligible to receive a monthly premium subsidy for health and/or dental plans or are eligible to retain continuous coverage of such plans: employees, and each employee who retires from a position or classification that was represented by this bargaining unit at the time of his or her retirement.
- E. For purposes of this Section 17.4 only, eligible family members' does not include Survivors of employees or retirees.

**17.5 Health Plan Coverages and Provisions.** The following provisions are applicable regarding Health and Dental Plan participation:

- A. Health, Dental and Life Participation by Other Employees: Regular part-time employees working nineteen (19) hours per week or less may participate in the County Health and/or Dental plans (with the associated life insurance benefit) at the employee's full expense.
- B. Coverage Upon Separation: An employee who separates from County employment is covered by his/her County health and/or dental plan through the last day of the month in which he/she separates. Employees who separate from District employment may continue group health and/or dental plan coverage to the extent provided by the COBRA laws and regulations.

**17.6 Family Member Eligibility Criteria.** The following persons may be enrolled as the eligible Family Members of a medical and/or dental plan Subscriber:

- A. The Subscriber's Legal Spouse.
- B. The Subscriber's Qualified Domestic Partner.
- C. Children of the Subscriber, the Subscriber's spouse, or the Subscriber's Qualified Domestic Partner who are unmarried and are:

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1. Under 26 years of age.
  2. Age 26 and over, who are dependent qualifying children as defined by the Internal Revenue Service in Publication 501.
  3. Age 26 and over, disabled and incapable of sustaining employment due to a physical or mental disability that existed prior to the child's attainment of age 26, and who are qualifying dependent children as defined by the Internal Revenue Service in Publication 501.
  4. Children who qualify as "dependent children" include natural children, step-children, adopted children, and any children specified in a Qualified Medical Support Order or similar court order.

### **17.7 Dual Coverage.**

- A. On and after January 1, 2010, each employee and retiree may be covered only by a single health (and/or dental) plan, including a CalPERS plan. For example, a District employee may be covered under a single County health and/or dental plan as either the primary insured or the dependent of another District employee or retiree, but not as both the primary insured and the dependent of another District employee or retiree.
- B. On and after January 1, 2010, all dependents may be covered by the health and/or dental plan of only one spouse or one domestic partner. For example, when both husband and wife are District employees, all of their eligible children may be covered as dependents of either the husband or the wife, but not both.

**17.8 Life Insurance Benefit Under Health and Dental Plans.** For employees who are enrolled in medical or dental coverage as either the primary or the dependent, term life insurance in the amount of ten thousand dollars (\$10,000) will be provided by the District.

**17.9 Supplemental Life Insurance.** In addition to the life insurance benefits provided by this agreement, employees may subscribe voluntarily and at their own expense for supplemental life insurance. Employees may subscribe for an amount not to exceed five hundred thousand dollars (\$500,000), of which one hundred thousand (\$100,000) is a guaranteed issue, provided the election is made within the required enrollment periods.

**17.10 Health Care Spending Account.** After six (6) months of regular employment, full time and part time (20/40 or greater) employees may elect to participate in a Health Care Spending Account (HCSA) Program designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a predetermined amount of money from their pay, not to exceed the IRS limits per calendar year, of before tax dollars, for health care expenses not reimbursed by any other health benefit plans. HCSA dollars may be expended on any eligible medical expenses allowed by Internal Revenue Code Section 125. Any unused balance is forfeited and cannot be recovered by the employee.

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**17.11 PERS Long-Term Care.** The District will deduct and remit monthly premiums to the PERS Long-Term Care Administrator for employees who are eligible and voluntarily elect to purchase long-term care at their personal expense through the PERS Long-Term Care Program.

**17.12 Dependent Care Assistance Program.** The District offers the option of enrolling in a Dependent Care Assistance Program (DCAP) designed to qualify for tax savings under Section 129 of the Internal Revenue Code, but such savings are not guaranteed. The program allows employees to set aside up to five thousand dollars (\$5,000) of annual salary (before taxes) per calendar year to pay for eligible dependent care (child and elder care) expenses. Any unused balance is forfeited and cannot be recovered by the employee.

**17.13 Premium Conversion Plan.** The District offers the Premium Conversion Plan (PCP) designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but tax savings are not guaranteed. The program allows employees to use pre-tax dollars to pay health and dental premiums.

**17.14 Prevailing Section.** To the extent that any provision of this Section (Section 17 - Health, Life & Dental Care) is inconsistent with any provision of any other District enactment or policy, or any other agreement or order of the Board of Directors, the provision(s) of this Section (Section 17 - Health, Life & Dental Care) will prevail.

**17.15 Rate Information.** The District will make health and dental plan rate information available upon request to employees and departments. In addition, the District will publish and distribute to employees information about rate changes as they occur during the year.

**17.16 Partial Month.** The District's contribution to the health plan premium is payable for any month in which the employee is paid. If an employee is not paid enough compensation in a month to pay the employee share of the premium, the employee must make up the difference by remitting the amount delinquent to the District. The responsibility for this payment rests with the employee. If payment is not made, the employee shall be dropped from the health plan.

**17.17 Coverage During Absences.** Employees shall be allowed to maintain their health plan coverage at the District group rate for twelve (12) months if on approved leave of absence provided that the employee shall pay the entire premium (i.e., both employer and employee share) for the health plan during said leave. Said payment shall be made by the employee at a time and place specified by the District. Late payment shall result in cancellation of health plan coverage.

An employee on leave in excess of twelve (12) months may continue group coverage subject to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) provided the employee pays the entire cost of coverage, plus any administrative fees, for the option selected. The entire cost of coverage shall be paid at a place and time specified by the District. Late payment may result in cancellation of health plan coverage with no reinstatement allowed.

## **SECTION 18 – PROBATIONARY PERIOD**

**18.1 Duration.** All appointments shall be subject to a probationary period. For original entrance appointments, the probationary period shall be nine (9) months. For promotional appointments, the probation period shall be from six (6) months.

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**18.2 Criteria.** The probationary period shall date from the time of appointment to a regular position after certification from an eligible list. It shall not include time served under provisional appointment or under appointment to limited term positions or any period of continuous leave of absence without pay or period of work connected disability exceeding fifteen (15) calendar days.

For those employees appointed to intermittent positions with a nine (9) month probation period, probation will be considered completed upon serving fifteen hundred (1500) hours after appointment except that in no instance will this period be less than nine (9) calendar months from the beginning of probation. If a permanent-intermittent probationary employee is reassigned to full time, credit toward probation completion in the full time position shall be prorated on the basis of one hundred seventy-three (173) hours per month.

**18.3 Rejection During Probation.** An employee who is rejected during the probation period and restored to the eligible list shall begin a new probationary period if subsequently certified and appointed.

- A. Appeal From Rejection. Notwithstanding any other provisions of this section, an employee (probationer) shall have the right to appeal from any rejection during the probationary period based on political, or religious, or union activities, or race, color, national origin, sex, age, disability, or sexual orientation.
- B. The appeal must be written, must be signed by the employee and set forth the grounds and facts by which it is claimed that grounds for appeal exist under Subsection A and must be filed through the District to the Board by 5:00 p.m. on the seventh (7th) calendar day after the date of delivery to the employee of notice of rejection.
- C. The Board shall consider the appeal, and if it finds probable cause to believe that the rejection may have been based on grounds prohibited in Subsection A, it may refer the matter to a Hearing Officer for hearing, recommended findings of fact, conclusions of law and decision, pursuant to the relevant provisions of the Board rules in which proceedings the rejected probationer has the burden of proof.
- D. If the Board finds no probable cause for a hearing, it shall deny the appeal. If, after hearing, the Board upholds the appeal, it shall direct that the appellant be reinstated in the position and the appellant shall begin a new probationary period unless the Board specifically reinstates the former period.

**18.4 Regular Appointment.** The regular appointment of a probationary employee will begin on the day following the end of the probationary period. A probationary employee may be rejected at any time during the probation period without regard to the Skelly provisions of this MOU, without notice and without right of appeal or hearing, except as provided in Section 18.3.A.

Notwithstanding any other provisions of the MOU, an employee rejected during the probation period from a position to which the employee had been promoted or transferred shall be restored to a position from which the employee was promoted or transferred.

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An employee dismissed for other than disciplinary reasons within six (6) months after being promoted or transferred from a position shall be restored to a position in the classification from which the employee was promoted or transferred.

A probationary employee who has been rejected or has resigned during probation shall not be restored to the eligible list from which the employee was certified unless the employee receives the affirmative recommendation from the appointing authority and is certified by the District whose decision is final. The District shall not certify the name of a person restored to the eligible list to the same appointing authority by whom the person was rejected from the same eligible list, unless such certification is requested in writing by the appointing authority.

**18.5 Layoff During Probation.** An employee, who is laid off during probation, if reemployed in the same class shall be required to complete only the balance of the required probation.

If reemployed in another classification, the employee shall serve a full probationary period.

**18.6 Rejection During Probation of Layoff Employee.** An employee who has achieved regular status in the class before layoff and who subsequently is appointed from the layoff list and then rejected during the probation period shall be automatically restored to the layoff list, unless discharged for cause, if the person is within the period of layoff eligibility. The employee shall begin a new probation period if subsequently certified and appointed in a different classification than that from which the employee was laid off.

## **SECTION 19 – PROMOTION/EXAMINATIONS**

**19.1 Competitive Exam.** Promotion shall be by competitive examination unless otherwise provided in this MOU.

**19.2 Promotion Policy.** The District shall determine whether an examination is to be called on a promotional basis.

**19.3 Open Exams.** If an examination for one of the classes represented by the Union is proposed to be announced on an open only basis, the District shall give five (5) days prior notice of such proposed announcement and shall meet at the request of the Union to discuss the reasons for such open announcement.

**19.4 Disqualification From Taking Examination.** If disqualified from taking an examination, an employee may utilize the appeal process specified in the Personnel Management Regulations for employees disqualified from taking an examination.

**19.5 Release Time for Examinations.** Regular employees shall be granted release time from work without loss of pay to take County examinations or take interviews for a County position provided the employee gives the District sufficient notice of the need for time off. Managers conducting interviews should provide an adequate and appropriate schedule for the interview to ensure that any operational impact that may be caused by an employee's absence to attend the interview will be minimized.

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**19.6 Release Time for Physical Examinations.** District employees who are required as part of the promotional examination process to take a physical examination shall do so on District time at the District's expense.

**19.7 Promotion Via Reclassification Without Exam.** Notwithstanding other provisions of this Section, an employee may be promoted from one classification to a higher classification and his/her position reclassified at the request of the appointing authority and under the following conditions:

- A. An evaluation of the position(s) in question must show that the duties and responsibilities have significantly increased and constitute a higher level of work.
- B. The incumbent of the position must have performed at the higher level for six (6) months.
- C. The incumbent must meet the minimum education and experience requirements for the higher class.
- D. The action must have approval of the District.
- E. The Union approves such action.
- F. Except in unique situations approved by the District, the employee must have passed the examination, if any, for the classification and be on the eligible list. The appropriate rules regarding probationary status and salary on promotion are applicable.

**19.8 Requirements for Promotional Standing.** In order to qualify for an examination called on a promotional basis, an employee must have probationary or regular status and must possess the minimum qualifications for the class. Applicants will be admitted to promotional examinations only if the requirements are met on or before the final filing date. If an employee who is qualified on a promotional employment list is separated from the District, except by layoff, the employee's name shall be removed from the promotional list.

**19.9 Seniority Credits.** Employees who have qualified to take promotional examinations and who have earned a total score, not including seniority credits, of seventy percent (70%) or more shall receive, in addition to all other credits, five one-hundredths of one percent (.05%) for each completed month of service as a regular District employee continuously preceding the final date for filing application for said examination. For purposes of seniority credits, leaves of absence shall be considered as service. Seniority credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five percent (5%) credit for seniority in any promotional examination.

## **SECTION 20 – PERFORMANCE EVALUATIONS**

- A. **Goal:** A basic goal of the employee evaluation is to help each employee perform his/her job more effectively to the mutual benefit of the employee and the District. The evaluation process provides an ongoing means of evaluating an employee's job performance and promoting the improvement of the job performance. The evaluation process also provides the opportunity to recognize and document outstanding service as well as service that has been unsatisfactory to the District.

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B. **Frequency of Evaluation.**

1. Probationary employees must be evaluated at least once during their probationary period.
2. Employees may be evaluated every year.

C. **Procedure.**

1. An employee be evaluated by the supervisor.
2. Evaluations will be based primarily on observation of the employee in the performance of his/her duties.
3. An employee will be informed in advance of a meeting with his/her supervisor to discuss the employee's evaluation.
4. The employee will be provided his/her evaluation in writing.
5. The employee has the right to prepare and have attached to the evaluation any written comments that the employee wishes to make.
6. When an employee is rated below satisfactory, the evaluation will give the reasons for such rating and include specific recommendations for improvement in writing.
7. Any rating below average or unsatisfactory must be supported by explanation received by the employee prior to the evaluation presentation.
8. The employee's signing of an evaluation does not mean that the employee agrees with the evaluation, but it does mean that the employee has had the opportunity to discuss the evaluation with his/her evaluator.
9. The employee will be given a copy of his/her completed evaluation form at the time the form is signed by the employee.
10. Nothing may be added by management to an evaluation after the employee has signed and received a copy of the evaluation, without the employee's written acknowledgment.

Failure to follow the foregoing procedure is subject to the grievance procedure. However, disputes over the actual content or ratings themselves in individual evaluations are not grievable.

**SECTION 21 – DISMISSAL, SUSPENSION, TEMPORARY REDUCTION IN PAY, AND DEMOTION**

**21.1 Sufficient Cause for Action.** The appointing authority may dismiss, suspend, temporarily reduce pay, or demote any employee for cause. A temporary reduction in pay is not to exceed more than five percent (5%) for a period of up to three (3) months. Suspensions without pay shall not exceed thirty (30) calendar days unless ordered by an arbitrator or an adjustment board.

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The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension, temporary reduction in pay, or demotion may be based on reasons other than those specifically mentioned:

- a. absence without leave,
- b. conviction of any criminal act involving moral turpitude,
- c. conduct tending to bring the District into disrepute,
- d. disorderly or immoral conduct,
- e. incompetence or inefficiency,
- f. insubordination,
- g. being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on District premises,
- h. neglect of duty, i.e. non-performance of assigned responsibilities,
- i. negligent or willful damage to public property or waste of public supplies or equipment,
- j. violation of any lawful or reasonable regulation or order given by a supervisor or Fire Chief,
- k. willful violation of any of the provisions of District Administrative Bulletins or regulations,
- l. material and intentional misrepresentation or concealment of any fact in connection with obtaining employment,
- m. misappropriation of District funds or property,
- n. unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this MOU,
- o. dishonesty or theft,
- p. excessive or unexcused absenteeism and/or tardiness.
- q. sexual harassment, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an

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individual's work performance, or creating an intimidating and hostile working environment.

**21.2 Skelly Requirements - Notice of Proposed Action (Skelly Notice).** Before taking a disciplinary action to dismiss, suspend for more than three (3) work days, temporarily reduce the pay of, or demote an employee, the appointing authority shall cause to be served personally or by certified mail, on the employee, a Notice of Proposed Action, which shall contain the following:

- a. A statement of the action proposed to be taken.
- b. A copy of the charges, including the acts or omissions and grounds upon which the action is based.
- c. If it is claimed that the employee has violated a rule or regulation of the District, a copy of said rule shall be included with the notice.
- d. A statement that the employee may review and request copies of materials upon which the proposed action is based.
- e. A statement that the employee has seven (7) calendar days to respond to the appointing authority either orally or in writing.

**21.3 Skelly Requirements – Notice to Union.** In addition to the Notice of Proposed Action, the appointing authority will serve the employee with a document that gives the employee the option of authorizing the District to provide his/her union with a copy of the Notice of Proposed Action. If the employee signs the authorization document and returns it to the appointing authority, the appointing authority will thereafter, within one work day, provide a copy of the employee's Notice of Proposed Action to his/her union, as authorized.

**21.4 Employee Response.** The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the appointing authority either orally or in writing before the proposed action may be taken. Upon request of the employee and for good cause, the appointing authority may extend in writing the period to respond. If the employee's response is not filed within seven (7) calendar days or during any extension, the right to respond is lost.

**21.5 Leave Pending Employee Response.** Pending response to a Notice of Proposed Action within the first seven (7) calendar days or extension thereof, the appointing authority for cause specified in writing may place the employee on temporary leave of absence, with pay.

**21.6 Order and Notice of Action.**

- A. In any disciplinary action to dismiss, suspend, temporarily reduce pay, or demote an employee having regular status, after having complied with the Skelly requirements where applicable, the appointing authority shall make an order in writing stating specifically the causes for the action.
- B. **Service of Order.** Said order of dismissal, suspension, temporary reduction of pay, or demotion shall be filed with the District, showing by whom and the date a copy was served upon the employee to be dismissed, suspended or demoted, either personally or by certified

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mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U. S. Postal Service.

**C. Employee Appeals from Order.** The employee may appeal an order of dismissal, suspension, temporary reduction of pay, or demotion through the procedures of Section 22 - Grievance Procedure of this MOU provided that such appeal is filed in writing with the District within ten (10) calendar days after service of said order.

**21.7 Order and Notice of Action – Notice to Union.** In addition to the Order and Notice, the appointing authority will serve the employee with a document that gives the employee the option of authorizing the District to provide his/her union with a copy of the Order and Notice. If the employee signs the authorization document and returns it to the appointing authority, the appointing authority will thereafter, within one work day, provide a copy of the employee's Order and Notice to his/her union, as authorized.

**21.8 Disciplinary Actions.** If the employee so requests in writing a copy of any written disciplinary action affecting an employee, it shall be furnished to the Union.

**21.9 Weingarten Rights.** The District recognizes an employee's right to representation during an investigatory interview or meeting that may result in discipline. The District shall not interfere with the representative's right to assist an employee to clarify the facts during the interview. If the employee requests a union representative, the investigatory interview shall be temporarily recessed for a reasonable period of time until a union representative can be present. For those interviews, which by nature of the incident must take place immediately, the union will take reasonable steps to make a union representative immediately available.

The employer shall inform the employee of the general nature of the investigation at the time the employer directs the employee to be interviewed.

## **SECTION 22 – GRIEVANCE PROCEDURE**

**22.1 Definition and Procedural Steps.** A grievance is any dispute which involves the interpretation or application of any provision of this MOU excluding, however, those provisions of this MOU which specifically provide that the decision of any District official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure. The Union may represent the grievant at any stage of the process. Grievances must be filed within thirty (30) calendar days of the incident or occurrence about which the employee claims to have a grievance and shall be processed in the following manner:

**Step 1.** Any employee or group of employees who believes that a provision of this MOU has been misinterpreted or misapplied to his or her detriment shall discuss the complaint with the grievant's immediate supervisor, who shall meet with the grievant within five (5) work days of receipt of a written request to hold such meeting. Grievances challenging suspensions, reductions in pay, demotions and terminations may be filed at Step 2 within the time frame set forth above.

**Step 2.** If a grievance is not satisfactorily resolved in Step 1 above, the grievant may appeal in writing within ten (10) work days to the Fire Chief. The Fire Chief or his/her designee shall have twenty (20) work days in which to investigate the merit of the complaint and to meet together at the

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same time with the the grievant, and the union. For grievances involving interpretation of this MOU, the Fire Chief or his/her designee will decide the grievance on its merits and provide the grievant, and the union with a written decision. For grievances involving appeals from disciplinary action, the Fire Chief or designee will attempt to settle the grievance. In the event that the grievance is not settled, the Fire Chief or designee will provide written notice of that fact to the grievant, and the union.

**Step 3.** No grievance may be processed under this Section which has not first been filed and investigated in accordance with Step 2 above and filed by the union within ten (10) work days of the written response of the Fire Chief or designee. If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this MOU, such grievance shall be submitted in writing to the District or designee within seven (7) workdays requesting referral to mediation (State Mediation and Conciliation Service). The mediation option is only available with the concurrence of the District or designee.

This step of the grievance procedure may be waived by the written mutual agreement of the parties.

**Step 4.** If the parties are unable to reach a settlement either the Union (or the District, when alleging a violation of Section 36 – Strike/Work Stoppage) whichever is the moving party, may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the grievant and the District. Such request shall be submitted within twenty (20) work days of the rendering of the Adjustment Board decision. Within twenty (20) days of the request for arbitration the parties shall mutually select an arbitrator who shall render a decision within thirty (30) workdays from the date of final submission of the grievance including receipt of the court reporter's transcript and post-hearing briefs, if any. The fees and expenses of the arbitrator and of the Court Reporter shall be shared equally by the grievant and the District. Each party, however, shall bear the costs of its own presentation, including preparation and post hearing briefs, if any.

### **22.3 Scope of Arbitration Decisions**

- A. Decisions of arbitrators, on matters properly before them, are final and binding on the parties hereto, to the extent permitted by law.
- B. No arbitrator may entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union which has been certified as the recognized employee organization for such unit and unless such dispute falls within the definition of a grievance as set forth in Subsection 22.1 above.
- C. Proposals to add to or change this MOU or to change written agreements supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this MOU, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this Section. No arbitrator has the power to amend or modify this MOU or written agreements supplementary hereto or to establish any new terms or conditions of employment.
- D. If the District in pursuance of the procedures outlined in Subsection 22.1, resolve a grievance which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time.

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E. No change in this MOU or interpretations thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the District and the Union.

**22.4 Time Limits.** The time limits specified above may be waived by mutual agreement of the parties to the grievance. If the District fails to meet the time limits specified in Steps 1 and 2 above, the grievance will automatically move to the next step. If a grievant fails to meet the time limits specified in Steps 1 and 2 above, the grievance will be deemed to have been settled and withdrawn.

**22.5 Union Notification.** The District shall provide the Union with a copy of any formal grievance(s) filed by a grievant.

**22.7 Filing by Union.** The Union may file a grievance at Step 2 on behalf of affected employees when action by the District violates a provision of this MOU.

**22.8 Disputes Over Existence of Grievance.** Disputes over whether a grievance exists as defined in Section 22.1 shall be resolved through the grievance procedure.

## **SECTION 23 – PERSONNEL FILES**

The District shall maintain only one official personnel file per employee. Employees shall have the right to inspect and review any official record(s) relating to his or her performance as an employee or to a grievance concerning the employee which is kept or maintained by the District in the employee's personnel file. The employee's union representative, with written authorization by the employee, shall also have the right to inspect and review any official record(s) described above. The contents of such records shall be made available to the employee and/or the employee's union representative for inspection and review at reasonable intervals during the regular business hours of the District.

Letters of reprimand are subject to the grievance procedure but shall not be processed past Step 2 unless said letters are used in a subsequent discharge, suspension or demotion of the employee, in which case an appeal of the letters of reprimand may be considered at the same time as the appeal of the disciplinary action. Copies of written reprimands or memoranda pertaining to an employee's unsatisfactory performance which are to be placed in the employee's personnel file shall be given to the employee who shall have the right to respond in writing to said documents.

Derogatory material in an employee's personnel file (such as warning letters) over two (2) years old will not be used in a subsequent disciplinary action unless directly related to the action upon which the discipline is taken. Derogatory material does not include prior suspensions, demotions or dismissals for cause.

The District shall provide an opportunity for the employee to respond in writing to any information which is in the employee's personnel file about which he or she disagrees. Such response shall become a permanent part of the employee's personnel record. The employee shall be responsible for providing the written responses to be included as part of the employee's permanent personnel record.

This section does not apply to the records of an employee relating to the investigation of a possible criminal offense, medical records and information or letters of reference.

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Employees have the right to review their official personnel files which are maintained by the District during their work hours. For those employees whose work hours do not coincide with the District's business hours, management shall provide a copy of the employee's personnel file for their review. The Custodian of records will certify that the copy is a true and correct copy of the original file. In a case involving a grievance or disciplinary action, the employee's designated representative may also review his/her personnel file with specific written authorization from the employee.

## **SECTION 24 – RESIGNATIONS**

An employee's voluntary termination of service is a resignation. Written resignations shall be forwarded to the District immediately on receipt, and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the appointing authority in writing to the employee shall indicate the effective date of termination.

**24.1 Resignation in Good Standing.** A resignation giving the appointing authority written notice at least two (2) weeks in advance of the last date of service (unless the appointing authority requires a longer period of notice, or consents to the employee's terminating on shorter notice) is a resignation in good standing.

**24.2 Constructive Resignation.** A constructive resignation occurs and is effective when:

- a. An employee has been absent from duty for five (5) consecutive working days without leave; and
- b. Five (5) more consecutive working days have elapsed without response by employee after the mailing of a notice of resignation by the appointing authority to the employee at the employee's last known address.
- c. The letter to the employee will include a document that gives the employee the option of authorizing the District to provide his/her union with a copy of the constructive resignation letter. If the employee signs the authorization document and returns it to the appointing authority, the appointing authority will thereafter, within one work day, provide a copy of the constructive resignation letter to the employee's union, as authorized.

**24.3 Effective Resignation.** A resignation is effective when delivered or spoken to the appointing authority, operative either on that date or another date specified.

**24.4 Revocation.** A resignation that is effective is revocable only by written concurrence of the employee and the appointing authority, except that an oral resignation that is rescinded in writing and delivered to the appointing authority by the end of the workday following the oral resignation must be accepted by the appointing authority.

**24.5 Coerced Resignations.**

**A. Time Limit.** A resignation which the employee believes has been coerced by the appointing authority may be revoked within seven (7) calendar days after its expression, by serving written notice on the District.

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- B. **Reinstatement.** If the appointing authority acknowledges that the employee could have believed that the resignation was coerced, it shall be revoked and the employee returned to duty effective on the day following the appointing authority's acknowledgment without loss of seniority or pay.
  - C. **Contest.** Unless, within seven (7) days of the receipt of the notice, the appointing authority acknowledges that the resignation could have been believed to be coerced, this question should be handled as an appeal under the grievance procedure contained in Section 2622 – Grievance Procedure of the MOU beginning with Step 2.
  - D. **Disposition.** If a final decision is rendered that determines that the resignation was coerced, the resignation shall be deemed revoked and the employee returned to duty effective on the day following the decision but without loss of seniority or pay, subject to the employee's duty to mitigate damages.

**24.6 Eligibility for Reemployment.** Within one (1) year of resignation in good standing from District service, a person who has had regular status which included satisfactory completion of probation may make application by letter to the District for placement on a reemployment list as follows: the class from which the person resigned; or any one class of equal or lesser rank in the occupational series and in which the person had previously attained regular status; or for any class which has replaced the class in which the person previously had status, provided that the person meets the minimum requirements for the new class. If the appointing authority recommends reemployment the District shall grant reemployment privileges to the person. Consideration of names from a reemployment list is mandatory if the appointing authority recommended reemployment of the individual(s) listed but is optional for other appointing authorities. Names may be removed from reemployment lists in accordance with the provisions of Section 9.2(J) – Separation Through Layoff of this MOU.

## **SECTION 25 – JURY DUTY AND WITNESS DUTY**

**25.1 Jury Duty.** For purposes of this Section, jury duty shall be defined as any time an employee is obligated to report to the court.

Employees shall advise the District as soon as possible if scheduled to appear for jury duty.

If summoned for jury duty in a Superior, Federal Court, or a Coroner's jury, employees may remain in their regular District pay status, or they may take paid leave (vacation, floating holiday, etc.) or leave without pay and retain all fees and expenses paid to them.

When an employee is summoned for jury duty selection or is selected as a juror in a Superior or Federal Court, employees may remain in a regular pay status if they waive all fees (other than mileage), regardless of shift assignment and the following shall apply:

1. If an employee elects to remain in a regular pay status and waive or surrender all fees (other than mileage), the employee shall obtain from the Clerk or Jury Commissioner a certificate indicating the days attended and noting that fees other than mileage are

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waived or surrendered. The employee shall furnish the certificate to the District where it will be retained. No "Absence/Overtime Record" is required.

2. An employee who elects to retain all fees must take leave (vacation, floating holiday, etc.) or leave without pay. No court certificate is required but an "Absence/Overtime Record" must be submitted to the District payroll clerk.

Employees are not permitted to engage in any employment regardless of shift assignment or occupation before or after daily jury service that would affect their ability to properly serve as jurors.

An employee on short notice standby to report to court, whose job duties make short notice response impossible or impractical, shall be given alternate work assignments for those days to enable them to respond to the court on short notice.

Intermittent employees are entitled to paid jury duty leave only for those days on which they were previously scheduled to work.

**25.2 Witness Duty.** Employees called upon as a witness or an expert witness in a case arising in the course of their work may remain in their regular pay status and turn over to the District all fees and expenses/ paid to them, other than mileage allowance, or they may take vacation leave or leave without pay and retain all fees and expenses.

Employees called to serve as witnesses in private cases or personal matters (e.g., accident suits and family relations) shall take vacation leave or leave without pay and retain all witness fees paid to them.

Retention or waiver of fees shall be governed by the same provisions as apply to jury duty as set forth in Section 25 – Jury Duty and Witness Duty of this MOU. Employees shall advise the District as soon as possible if scheduled to appear for witness duty. Permanent-intermittent employees are entitled to paid witness duty only for those days on which they were previously scheduled to work.

## **SECTION 26 – REIMBURSEMENT**

**26.1 Training Reimbursement.** The District shall govern reimbursement for training and shall limit reimbursement for career development training to seven hundred fifty dollars (\$750) per year, except as otherwise provided in the supplemental sections of this MOU. Registration and tuition fees for career development education may be reimbursed for up to fifty percent (50%) of the employee's net cost. Books necessary for courses taken for career development education may be reimbursed for up to one hundred percent (100%) of the employee's net cost.

**26.2 Personal Property Reimbursement.** The loss or damage to personal property of employees is subject to reimbursement under the following conditions:

- a. The loss or damage must result from an event which is not normally encountered or anticipated on the job and which is not subject to the control of the employee.
- b. Ordinary wear and tear of personal property used on the job is not compensated.

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- c. Employee tools or equipment, provided without the express approval of the District, and automobiles are excluded from reimbursement.
  - d. The loss or damage must have occurred in the line of duty.
  - e. The loss or damage was not a result of negligence or lack of proper care by the employee.
  - f. The personal property was necessarily worn or carried by the employee in order to adequately fulfill the duties and requirements of the job.
  - g. The loss or damage to employee's eyeglasses, dentures, or other prosthetic devices did not occur simultaneously with a job connected injury covered by workers' compensation.
  - h. The amount of reimbursement shall be limited to the actual cost to repair damages. Reimbursement for items damaged beyond repair shall be limited to the actual value of the item at the time of loss or damage but not more than the original cost.
  - i. The burden of proof of loss rests with the employee.

**26.3 Reimbursement for Meal Expenses.** Employees shall be reimbursed for meal expenses under the following circumstances and in the amount specified:

- a. When the employee is required to be out of his/her regular or normal work area during a meal hour because of a particular work assignment and with prior approval of the Fire Chief or his designee.
- b. When the employee is required to stay over to attend consecutive or continuing afternoon and night sessions of a board or commission.
- c. When the employee is required to incur expenses as host for official guests of the District, work as members of examining boards, official visitors, and speaker or honored guests at banquets or other official functions.

When the employee is required to work three (3) or more hours of overtime, or scheduled to work overtime with less than twenty-four (24) hours' notice; in this case he/she may be reimbursed in accordance with the Administrative Bulletin on Expense Reimbursement.

Meal costs will be reimbursed only when eaten away from home.

Procedures and definitions relative to reimbursement for meal expenses shall be in accordance with the Administrative Bulletin on Expense Reimbursement.

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## **SECTION 27 – CLASSIFICATIONS**

Existing classes of positions may be abolished or changed and new classes may be added to the classification plan by the District subject to approval by the Board of Directors. The District will offer to meet and confer with the Union on the minimum qualifications and salary of new classes and on any proposed changes in the minimum qualifications in current classes represented by the Union.

If the District wishes to add duties to classes represented by the Union, the Union shall be notified and upon request of the Union, representatives of the District will meet and consult with the Union over such duties.

## **SECTION 28 – SAFETY**

The District shall expend every effort to see to it that the work performed under the terms and conditions of this MOU is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations. The District is aware of the U.S. Supreme Court "Whirlpool" decision regarding safe working conditions and will continue to comply with all of the provisions of that decision. The Union may recommend safety guidelines, regulations, training programs and necessary corrective actions concerning conditions associated with the work environment. The District encourages all employees to participate on/with the Safety Committee.

**28.1 VDT Users Eye Examination.** The District agrees to provide an annual eye examination on District time at District expense provided that the employee regularly uses a video display terminal at least an average of two (2) hours per day as certified by their District.

Employees certified for examination under this program must process their request through the District. Should prescription VDT eyeglasses be prescribed for the employee following the examination, the District agrees to provide, at not cost, the basic coverage which includes a ten dollar (\$10) frame and single vision lenses. Employees may, through individual arrangement between the employee and their doctor and solely at the employee's expense, include bifocal, trifocal or blended lenses and other care, services or materials not covered by the Plan. The basic plan coverage, including the examination, may be credited toward the employee-enhanced benefit.

## **SECTION 29 – MILEAGE**

**29.1 Mileage Reimbursement Rate.** Mileage allowance for the use of personal vehicles on District business shall be paid according to the rates allowed by the Internal Revenue Service and shall be adjusted to reflect changes in this rate on the date it becomes effective or the first of the month following announcement of the changed rate by the Internal Revenue Service, whichever is later.

**29.2 Mileage Reimbursement Policy.** Mileage from an employee's home to the normal work location is not reimbursable. The normal work location is the location to which an employee is regularly assigned. An employee with more than one (1) normal work location shall be reimbursed for the mileage traveled in the same work day between those work locations.

When an employee is temporarily reassigned to a different work location, mileage will be reimbursed in excess of the normal mileage between the employee's home and the regular work location.

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## **SECTION 30 – MEAL PERIODS**

**30.1 Varying Meal Periods.** Representatives of the Union may discuss varying meal periods (e.g. one-half (1/2) hour versus a one (1) hour meal period), with the District.

## **SECTION 31 – SERVICE AWARDS**

The District shall continue its present policy with respect to service awards including time off; provided, however, that the type of award given shall be at the sole discretion of the District.

The following procedures shall apply with respect to service awards:

- a. Presentation Before the Board of Directors. An employee with twenty (20) or more years of service may go before the Board to receive his/her Service Award. When requested the District will make arrangements for the presentation ceremony before the Board.
- b. Service Award Day Off. Employees with fifteen (15) or more years of service are entitled to take a day off with pay at each five (5) year anniversary.

## **SECTION 32 – LENGTH OF SERVICE DEFINITION**

*(For Service Awards & Vacation Accruals)*

The length of service credits of each employee of the District shall be from the first day of the calendar month after appointment to regular status.

District shall determine these matters based on the employee status records.

## **SECTION 33 – UNFAIR LABOR PRACTICE**

Either the District or the Union may file an unfair labor practice with the Public Employees Relation Board.

## **SECTION 34 – REGULAR PART-TIME EMPLOYEE BENEFITS**

Regular part-time employees receive prorated vacation and sick leave benefits. They are eligible for health, dental and life insurance benefits at corresponding premium rates providing they work at least fifty (50) percent of full time. If the employee works at least fifty (50) percent of full time, District retirement participation is also included.

## **SECTION 35 – NOTARY PUBLIC**

Employees who are designated by the District to perform duties as a notary public will be allowed time off (up to one hour) for testing and will be reimbursed for their application, testing and renewal fees.

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## **SECTION 36 – STRIKE/WORK STOPPAGE**

During the term of this MOU, the Union, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, sickout, or refusal to perform customary duties.

In the case of a legally declared lawful strike against a private or public sector employer which has been sanctioned and approved by the labor body or council having jurisdiction, an employee who is in danger of physical harm shall not be required to cross the picket line, provided the employee advises his or her supervisor as soon as possible, and provided further that an employee may be required to cross a picket line where the performance of his or her duties is of an emergency nature and/or failure to perform such duties might cause or aggravate a danger to public health or safety.

## **SECTION 37 – ADOPTION**

The provisions of this MOU shall be made applicable on the dates indicated and upon approval by the Board of Directors. Resolutions and Ordinances, where necessary, shall be prepared and adopted in order to implement these provisions. It is understood that where it is determined that an Ordinance is required to implement any of the foregoing provisions, said provisions shall become effective upon the first day of the month following thirty (30) days after such Ordinance is adopted.

## **SECTION 38 – DURATION OF AGREEMENT**

This Agreement shall continue in full force and effect from July 1, 2013 to and including June 30, 2016. Said Agreement shall automatically renew from year to year thereafter unless either party gives written notice to the other prior to sixty (60) days from the aforesaid termination date of its intention to amend, modify or terminate the agreement.

## **SECTION 39 – SCOPE OF AGREEMENT AND SEPARABILITY OF PROVISIONS**

**39.1 Scope of Agreement.** Except as otherwise specifically provided herein, this MOU fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Neither party shall, during the term of this MOU demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of this MOU by mutual agreement.

**39.2 Separability of Provisions.** Should any section, clause or provision of this MOU be declared illegal, unlawful or unenforceable, by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this MOU.

**39.3 Administrative Bulletins.** Where a specific provision contained in a section of this MOU conflicts with a specific provision contained in a Administrative Bulletin, the provision of this MOU shall prevail. It is recognized, however, that certain provisions of the Administrative Bulletins may be

**SECTION 39 – SCOPE OF AGREEMENT AND SEPARABILITY OF PROVISIONS**

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supplementary to the provisions of this MOU or deal with matters not within the scope of representation and as such remain in full force and effect.

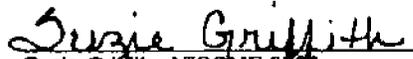
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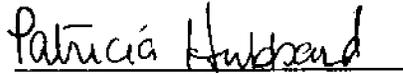
**EAST CONTRA COSTA FIRE  
DISTRICT**

  
Glenn Berkheimer, IEDA

  
Hugh Henderson, Chief

**AFSCME, LOCAL 2700**

  
Suzie Griffith, AFSCME 2700

  
Patricia Hubbard, Member

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**SALARY SCHEDULE**

SALARY SCHEDULE  
April 1, 2014

Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Administrative Assistant I	\$2,737.82	\$2,874.71	\$3,018.45	\$3,169.37	\$3,327.84
Administrative Assistant II	\$3,666.82	\$3,850.16	\$4,042.67	\$4,244.80	\$4,457.04

SALARY SCHEDULE  
July 1, 2015

Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Administrative Assistant I	\$2,792.57	\$2,932.20	\$3,078.81	\$3,232.75	\$3,394.39
Administrative Assistant II	\$3,740.15	\$3,927.16	\$4,123.52	\$4,329.69	\$4,546.18

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