

**MEMORANDUM OF
UNDERSTANDING**

EL DORADO IRRIGATION DISTRICT

AND THE

**ASSOCIATION OF EL DORADO
IRRIGATION DISTRICT EMPLOYEES**

2004

**JANUARY 1, 2005 THROUGH
DECEMBER 31, 2009**

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Appendix A – Represented Positions

Appendix B – EID Code of Conduct

Appendix C – EID Injury and Illness Prevention Program

**EL DORADO IRRIGATION DISTRICT
AND THE
ASSOCIATION OF EL DORADO IRRIGATION DISTRICT EMPLOYEES
2004
January 1, 2005 through December 31, 2009
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING has been jointly prepared by the designated representatives of EL DORADO IRRIGATION DISTRICT, a public agency within the meaning of Section 3501(c) of the Government Code of the States of California and herein after referred to as the District, and the development representatives of the ASSOCIATION OF EL DORADO IRRIGATION DISTRICT EMPLOYEES, a recognized employee organization within the meaning of Section 3501 (b) of the Government Code of the State of California and hereinafter referred to as the Association; to define the relationship between the District and the Association and to establish conditions of employment for members of the Unit.

The District is engaged in rendering services to the public; therefore, District and Association recognize their mutual obligation for the continuous rendition and availability or uninterrupted service.

The scope of representation covered by the Memorandum of Understanding shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to wages, hours, and other terms and conditions or employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

ARTICLE 1. RECOGNITION

1. Access.

Official representatives of the Association will be permitted access to District property to confer with District employees on matters of employer-employee relations during non-working hours, but such representatives shall not interfere with work in progress, and shall request and receive the authorization of the District's Manager of his/her representative before entering the premises.

2. Shop Stewards.

The District recognizes the right of the Association to appoint shop stewards. The Association shall notify the District, in writing, as to such shop steward's identity and of subsequent appointments, if any. An employee appointed, as shop steward is required to work full time in his/her classification and shall not interrupt the work of other employees. No steward shall leave his/her job without first obtaining the permission of his/her supervisor, which may be withheld by the supervisor if, in the sole discretion of the supervisor, his/her presence is necessary for the safe conduct and efficiency of the operations.

3. Bulletin Boards/Email.

The Employer will furnish bulletin board space and work email where currently available. The Association may provide additional bulletin boards for placement in areas where employer-provided space is not available. Placement shall be decided by mutual agreement. Bulletin boards and work email shall only be used for the following notices:

- A. Scheduled Association meetings, agenda, and minutes.
- B. Information on Association elections and the results.
- C. Information regarding Association social, recreational, and related news bulletins.
- D. Reports of official business of the Association, including reports of committees or its Board of Directors.

Posted notices shall not be obscene, defamatory, or of a political nature, nor shall they pertain to public issues which do not include the Employer or its relations with its employees. All notices to be posted must be dated and signed by an authorized representative of Association. It will be up to the Association President (or designee) to police the bulletin board(s) for content in accordance with the above and removal of items no longer current. However, if there is a question about the propriety of any posted notice, it shall be referred to the District Manager and Association President or their designees and shall be removed until agreement is reached to post such material.

Only reasonable use of employer equipment, materials, supplies, or interdepartmental mail systems shall be used for the preparation, reproduction, or distribution of notices, during their regular working time.

4. Released Time.

Association business will be conducted on the employee's off-duty time except as designated during the grievance procedure or when meeting with management.

5. Non-Discrimination.

Neither the District nor the Association will interfere with, intimidate, restrain, coerce or discriminate against any employee because of his/her membership or non-membership in the Association.

6. Coverage by MOU.

Those employees covered by this Memorandum of Understanding are persons employed by the District other than those employed in the following positions: managers, supervisors, professional, administrative exempt, confidential and temporary employees. Appendix A lists the classification covered by this Agreement.

7. Dues Deductions.

District shall deduct from employee wages and remit to the proper officers of the Association the membership dues of the members of the Association.

ARTICLE 2. EMPLOYEE STATUS

1. Types of Employment.

Employees will be designated as regular, probationary, seasonal, temporary or part-time, depending upon the purpose for which they were hired, budgetary status, and their length of continuous service with the District.

- 2. Probationary Periods.**
A regular employee is defined as an employee who has successfully passed twelve (12) month probation period of full-time satisfactory service with the District in a regularly budgeted position. An employee who is promoted to a position outside the bargaining unit shall serve a twelve (12) month probationary period; promotions within the unit shall be for six (6) months. A period(s) of absence totaling over 40 hours shall not count toward the completion of a probationary period, regardless of the reason for the absence. An employee, who has completed an initial probationary period in the class from which promoted, shall be allowed to return to that class (if it still exists) if he/she fails to complete a promotional probationary period.
- 3. Probationary Status.**
A probationary employee is defined as an employee who was hired for a position that has been regularly established and is of indeterminate duration. A probationary employee will receive not less than the minimum rate of pay for the job. An employee's eligibility for sick leave, vacation accrual, leaves of absence, health and welfare or items of a similar nature will occur as provided in specific articles governing those benefits. While on probation, an employee may be terminated without cause. There is no right of appeal from a probationary termination.
- 4. Seasonal Employees.**
A seasonal employee is defined as a person employed by the District two (2) seasons in a row and such seasons are within six (6) months of each other and employee satisfactorily completes three (3) months during the second season. These employees, when re-employed on a regular and returning basis shall be considered seasonal after satisfactory completion of twelve (12) months of full-time service employment. Seasonal Employees shall receive the following benefits: Sick leave, health and welfare benefits, and will receive holiday pay under the same conditions as full-time, regular employees if scheduled to work during the week in which the holiday occurs. If not rehired within six (6) months of any year, seasonal status will terminate. The health and welfare benefits will be available to the seasonal employees at his/her cost for the months not employed by the District.
- 5. Part-time Employment.**
A regular or probationary employee may be designated as a part-time employee if he/she is scheduled to work fewer than forty (40) hours per week. Wage rates shall be established for the work performed and benefits shall be on a pro rata basis.
- 6. Temporary Employees.**
Temporary employees shall be defined as an employee who fills a classification for a temporary period of time. In the event the classification is filled with one or more temporary employees for a period of time of more than eighteen (18) months, that classification shall be immediately filled with regular full time employees.
- 7. Term Employees.**
A term employee shall be defined as an employee who is hired by the District to work on a specific project or complete a specific task, for a fixed period of time. A term employee shall receive full benefits and be allowed to be members of the Association and receive every entitlement thereto.

ARTICLE 3. HOURS AND OVERTIME

1. Standard Work Week.

A standard work week is defined to consist of seven (7) consecutive calendar days, Saturday through Friday, and a basic work week is defined to consist of five (5) days of eight (8) hours each within the work week. Unpaid meal breaks shall be no less than one-half (1/2) hour and not more than one (1) hour in length. Staggered work hours and/or days will be permitted as required by District needs, with the approval of management and the employee. Except in an emergency a fifteen (15) minute paid break shall be provided approximately the midpoint of each half of the normal work shift and shall not be disruptive to work assignments. Breaks shall not be taken in the first hour or the last hour of a half work shift, nor shall they be accumulated for later use. Time worked in excess of seven (7) minutes will be paid for one-quarter (1/4) hour of pay.

2. Alternate Work Schedules.

A. Alternative Work Schedules can be approved by the Department Head, provided they do not interfere with District operations and are treated as permanent changes in the employees' regular schedule in accordance with provisions on the Fair Labor Standards Act (FLSA). All alternative work schedules must be on file with the District Payroll Office prior to the employee working that schedule. Management retains the sole right to designate the FLSA work week period and return to the standard work shift and/or work week with fourteen (14) days prior notice to the affected employees. By mutual written consent between the employee and his/her supervisor and filed in payroll, the time to return to the standard work shift may be extended or shortened.

B. 24-Hour Shifts.

The operators and supervisory staff for the Wastewater Division have proposed a modification of the current shift schedules for 24-hour coverage at the treatment plants. The current schedule includes a day shift and a graveyard shift of 10 and/or 12 hours. The new schedule would be a 24-hour modified "fireman's" shift. The 24-hour shift has distinct advantages, which benefit the District and employees.

Numerous studies have shown that a graveyard shift has adverse health effects for operators. The graveyard operator is also isolated from normal activities and interactions. Communications are very difficult. Vacation scheduling is disruptive for the entire staff. Training is almost impossible. Additionally, overtime has become excessive. In some cases, operators work nearly 300 hours of overtime a year. This provision should cut back on overtime, benefiting the operators by reducing the stress associated by working these long overtime hours. Additionally, at the El Dorado Hills plant, the District will benefit by having personnel on site for 24 hours instead of 20 hours at no additional cost to the District. This will greatly improve reaction time for alarms / problems. At present, during the standby period (0200 to 0600) it can take up to 30 minutes for an operator to return to the plant from their home to handle emergencies. With personnel on site, this response time will be reduced to minutes.

The specifics of how the 24-hour shift will work are explained below.

24-Hour Shift:

The 24-hour shift duties break down as follows: The first eight hours shall be normal duties (as they are performed now). The second eight hours will be light duty. It shall

normally consist of routine lab testing, data recording, and SCADA monitoring. If the situation warrants, the duties may be as intense as the first eight hours of the shift. The remaining eight hours of the 24-hour shift will be a rest period. The operator may sleep during this period, but must respond to all alarms or other operational requirements as necessary.

The operators will receive their normal hourly pay for the first sixteen hours of the 24-hour shift. The remaining 8-hours (rest period) will be compensated at a rate of one-half of normal hourly pay.

Operators on the 24-hour shift will work two 24-hour shifts per week. Their weekly pay will be the same as if they worked a normal 40-hour week, i.e. 32-hours at full pay and 16-hours at half pay.

Alarm Compensation During Rest Period:

Operators responding to alarms during the 8-hour rest period will be paid at their normal hourly rate of pay for the time worked. The time will be computed in 15-minute increments or any part thereof. If the operator does not get at least 5-hours accumulative total rest hours during this 8-hour period, the entire 8-hour period will be paid at the time-and-a-half rate.

On Holidays, the rate of pay for responding to alarms shall be computed at the time-and-a-half rate. If the accumulative total rest hours are less than 5-hours, the entire 8-hour period shall be paid at the double-time rate.

Holiday Compensation:

Operators shall earn time-and-a-half pay for 16-hours worked each Holiday as well as time worked during the 8-hour rest period. Again, if the accumulative total rest hours are less than 5-hours, the entire 8-hour period shall be paid at the double-time rate.

Holiday compensation shall comply with the current MOU.

Meal Periods:

Operators working the 24-hour shift shall be given three paid meal periods of 30 minutes each during the shift. As the meal periods are paid time, any emergencies that arise during meal periods will be responded to, as is the current practice.

Sick Leave and Vacation Accrual:

Because there is no change in the number of paid hours worked each year, there will be no change in the current accrual rate of sick and vacation leave.

Vacation time for an operator on the 24-hour shift will be charged as 20 hours vacation used for each normally scheduled day taken off. The same holds true for sick days taken off.

Visitation During Work Hours:

The operator may have family or friends visit during allowed meal periods. Visits during other times are discouraged. Under no circumstances will overnight visits be allowed.

Living Conditions:

The District shall provide adequate bunkrooms for the 24-hour operations staff. There shall be separate bunk facilities for the male and female staff. The District shall upgrade the plants to provide facilities for preparing meals. They shall provide a television with either cable or satellite service for use during the rest period or after all assigned work is completed during the light duty portion of the shift. They shall provide a computer with Internet service that the staff may use in accordance with and in compliance with the El Dorado Irrigation District Internet/E-Mail Usage Policy and Guidelines.

How Do We Decide If The Shift Change Is A Success?

With a reduction in sick leave and, at El Dorado Hills WWTP, faster / better response to plant alarms occurring between 0200 and 0600 should be achieved. (The times no one is currently at the plant.)

Other success indicators are more subjective and harder to quantify. They include better operator morale and better quality of life.

Trial Period:

A one-year trial would be best. We should evaluate the program quarterly during this year and modify it if or as needed.

If problems arise, they will be addressed by a committee consisting of Human Resources, Wastewater staff and management, and the Employee Association. If no agreement on a problem can be reached, either group can cancel this pilot test by informing the other group and giving 30 days notice.

3. Hours Paid.

Employees shall report for work at their assigned District facility and shall return thereto at the conclusion of the day's work and the time spent in traveling between such facility and the job site shall be considered as time worked.

4. Overtime Compensation.

Overtime compensation shall be paid at the rate of one and one-half (1-1/2) times the regular rate of pay. After the twelfth (12th) hour of continuous duty, the wage shall be two (2) times the regular rate of pay. When computing continuous hours, a period of time up to two (2) hours away from the job will not constitute a break in continuous time.

5. Overtime Defined.

- A. Time worked in excess of a full-time employee's regular scheduled work day;
- B. Time worked on an employee's regularly scheduled day off.
- C. Time worked on a holiday.

Overtime shall be computed to the nearest one-quarter (1/4) hour. When computing overtime, paid time off shall be considered time worked.

6. Distribution of Overtime.

Overtime will be distributed, as equally as is practicable among those employees who are qualified and available. The District will not require employees who have worked overtime to take equivalent time off during a work day without pay except for flex time arrangements between the employee and his/her supervisor.

7. Standby Duty.

- A. The District may assign employees to standby awaiting call out. The District shall notify employees in writing that they shall serve on standby. The written notice shall include the specific days and hours that each employee shall serve on standby duty. Such assignment may be on a full week basis and shall be rotated equally among qualified employees each week starting Friday at 4:00 p.m. Employees cannot be in rotation more than once in a four-week period. The District may assign employees to standby more than once every four (4) weeks in the event staffing levels so require.

Failure to respond when called may subject the employee to disciplinary action in addition to denial of standby pay. Standby personnel are not allowed to consume any alcohol/drugs during their week on standby except prescribed medication, which does not affect the employee's ability to perform his/her duties. Standby may be transferred between the employees, with 24 hours notice given to the employee's supervisor. The notice shall state the names of the employees on standby and the assigned days.

- B. Compensation – Any employee assigned to primary standby shall receive compensation of \$1.60 per hour in addition to the employee's regular pay. Any employee assigned to secondary standby shall receive compensation of \$.80 per hour in addition to the employee's regular pay. All calculations for standby compensation shall be based upon the presumption that employees serve on standby 15-1/2 hours per day, through the employee's regular work week, and 24 hours per day through the employee's regularly scheduled weekend. The District may assign employees to standby based upon their ability to carry out the necessary duties and responsibilities and not based exclusively upon the employee's job classification. During any such primary standby assignment, the District shall provide the employee a District vehicle for transportation between work and home. Any year that the District's employees receive a CPI increase, the hourly rate for standby shall be increased by the same percentage.
- C. Rest Periods – The intent of Rest Periods is to provide sufficient time for rest between a significant period of work and the start of the next regularly scheduled workday.

1. Eligibility – You are entitled to a rest period of eight and one-half consecutive hours after working eight (8) hours or more overtime during the sixteen (16) hours immediately prior to your regularly scheduled hours of work on a workday or non-workday.

When an employee is eligible for a rest period, he/she shall not be required to report to work until at least eight (8) hours after the completion of the overtime or extension of his/her workday, and shall receive full pay for any regularly scheduled hours not worked as a result of this rule.

2. Special Rest Period – An employee's supervisor may excuse the employee from up to four (4) hours of the employee's regular shift if the employee worked four or more overtime hours in the eight (8) hours immediately preceding the beginning of the employee's regular shift. This special rest period may be granted if the timing of an emergency call-out prevents the employee from

getting sufficient rest. The employee will receive straight time pay for any of the special rest periods which fall within the employee's regular shift.

ARTICLE 4. WAGES AND PAY PROVISIONS

- 1. Wage Adjustments.**
Effective the first pay period of the calendar year 2007, 2008, and 2009, the District shall increase the salary schedule by an amount equivalent to the percentage increase in the Consumer Price Index for U.S. All Cities, Urban Wage Earners and Clerical Workers from the previous October of each year, by not less than one (1%) percent and not more than four (4%) percent.
- 2. New and Revised Job Descriptions, Classifications, and Titles.**
The District may, from time to time during the term of the Memorandum of Understanding, establish new and/or revise existing job descriptions, classification specifications and/or wage rates as a result of changes in operations or requirements of the District.
- 3. Wage Schedule.**
The wage schedule, (Occupation/Range list) established by the Board of Directors shall prescribe for each Class, a pay range in accordance with the approved wage schedule. A class and compensation study will be implemented during the course of this contract agreement between the District and the Employee Association.
- 4. Payroll Periods and Pay Days.**
The District will make every reasonable effort to pay bi-weekly intervals on Fridays for two (2) week payroll periods not less than four (4) nor more than ten (10) days prior to the pay date, provided that if a regular pay day falls on a holiday, payment will be made on the preceding work day.
- 5. Temporary Work in Lower Classification.**
When an employee is temporarily assigned to work in a classification lower than his/her regular classification, his/her rate of pay will not be reduced, unless negotiated between Management and the Association.
- 6. Temporary Work in a Higher Classification.**
When an employee is temporarily assigned in writing by supervision to work in a classification higher than his/her regular classification, his/her rate of pay in such higher classification shall be a 5% increase or the first step of the new position, whichever is greater, provided that the person has the necessary skills and that such time worked is not less than four (4) consecutive work days on each occasion. The District will not divide the above classification work between two or more employees for the sole reason of avoiding the increase provided by this section.
- 7. Merit Adjustment by District Manager.**
Upon recommendation of a supervisor, and the consent of the Department Head the District Manager may make adjustments to employees' wages, not to exceed the maximum wage range for that classification on the basis of merit at any time.
- 8. Pay Step Assignments.**

- A. An employee whose wage at the time of adoption of a new pay range for his/her classification is below the bottom of the new range shall be moved to the first step of the range.
- B. Reclassification of an employee's position from one class to another of comparable pay range shall not change the employee's rate of pay.
- C. An Employee whose classification is moved to a higher pay range shall
 - 1) Enter the higher range at its minimum, or not less than five (5%) percent more than the employee's prior wage;
 - 2) If the employee's current wage exceeds the minimum, the employee shall receive a wage increase such that his or her salary is no less than five (5%) percent greater than the employee's prior wage;
 - 3) If the employee's current wage is the same as the minimum, the District Manager shall determine, on the basis of these rules, what wage the employee shall receive in his or her reclassified position.
- D. An employee whose classification is moved to a lower pay range shall:
 - 1) If his or her current wage does not exceed the maximum wage of the new range, retain that wage; or
 - 2) If his or her current wage does exceed that maximum of the new range, receive the maximum wage of the new range.
- E. In the event that an employee enters a higher range by promotion, the employee's wage in the higher range shall increase to the step closest to five percent (5%), but not less than four percent (4%) unless limited by the top of the range.
- F. In the event that an employee is demoted, the General Manager shall set for him or her a wage within the pay range of the class to which the employee has been demoted.
- G. In case a pay range is increased by the Board of Directors, each employee in the range shall receive the corresponding step in the new pay range.
- H. A probationary employee shall receive the minimum wage for the range to which the position is allocated, expect that:
 - 1) In hiring exceptionally qualified personnel, the General Manager may approve appointment at a wage above the minimum; or
 - 2) In cases of unusual difficulty in filling a position, the General Manager may approve appointment at a wage above the minimum

9. Reclassification Requests.

If an employee believes his/her job has changed significantly over time through the accretion of higher-level duties, he/she may request a classification review of his/her position by submitting a completed District form to his/her immediate supervisor. Such request may be made only once every three (3) years unless granted special permission by the Human Resources Director. One copy of the form shall be routed to the Department Head and another copy to the Human Resources Director.

Upon review, the supervisor shall either endorse or reject the request and forward it to the Department Head for review. After review by the Department Head, who may either endorse or not endorse it, the request will be forwarded to the Human Resources Director.

The Human Resources Director will issue a decision with in fourteen calendar days from receipt with specific reasons(s). The decision may be appealed by the incumbent in the position to the General Manger within seven calendar days from receipt of the decision. The General Manager shall issue a final decision with twenty-one calendar days from

receipt of appeal. No other appeal shall be allowed, or be subject to the grievance procedure.

ARTICLE 5. HEALTH AND WELFARE

1. Health Plans.

The District agrees to provide and maintain through the duration of this agreement for all regular and eligible seasonal employees a medical plan to be provided through the Public Employee Retirement System (PERS). Dental/orthodontia and vision plans will be provided in accordance with the same plans offered to other benefited District employees. The District and the Association agree to meet and confer following implementation of this Agreement to establish a committee to investigate alternative plans for dental, vision, and orthodontia care. In addition, the parties shall meet and confer regarding the implementation of any viable DVO plan.

2. Maximum District Contributions.

For the term of this agreement, the maximum District contribution for the medical plan shall not exceed the rate for the lowest HMO plan for employees plus two or more dependants, available in El Dorado County under the PERS program. The minimum District contribution for medical plan shall be the employee only rate for that same medical plan. All health care benefits shall be made available through the Cafeteria Plan. In the event an employee “opts out” of the medical plan, that employee shall receive the cash out option in the amount equivalent to the District’s contribution for the employee only rate of the lowest HMO plan available in El Dorado County under the PERS program. The maximum District contribution toward dental, vision, and orthodontia plans shall not exceed \$96 per month, per employee.

3. Employee Contributions.

Any amount not covered by the District contributions, shall be the responsibility of the employee.

4. Cafeteria Plan.

The District and the Association have agreed and have established a Cafeteria Plan. All health and welfare benefits as well as other District benefits may be made available through the Cafeteria Plan, subject to any limitations described in the Cafeteria Plan document and/or by the plan administrator.

ARTICLE 6. EMPLOYEE BENEFIT PROGRAMS

1. Ancillary Benefits.

All District employees will be provided coverage by the United States Social Security Act, and by the State of California Worker’s Compensation, Unemployment Insurance and State Disability Insurance (SDI) programs, and California Paid Family Leave Act (PFL).

2. PERS Benefits.

Effective as soon as possible during the first year of this agreement, the District shall upgrade the retirement plan to the PERS, two and seven-tenths percent at fifty-five (2.7% at 55) retirement plan. The District will continue to pay one half (1/2) of the employees eight (8%) percent contribution. The District shall cause the employee’s share of the

PERS contribution to be made on a pre-tax basis. The period for determining average salary for retirement benefits shall be the defined benefit plan of the highest one year.

3. Life Insurance.

Each unit employee shall be covered by a \$12,000 Life Insurance policy paid for by the District.

ARTICLE 7. SENIORITY

1. Seniority Defined.

Seniority is defined as total length of service with the District. In determining an employee's seniority his service will be deemed to be broken by termination of employment by reason of:

- A. Resignation;
- B. Discharge for cause;
- C. Failure to return immediately on the expiration of a leave of absence or acceptance of other employment while on leave;
- D. Absence without pay for two (2) consecutive days without notifying the District, if physically able, and without a leave of absence.

2. Seniority Not Broken.

Seniority of service will not be broken when an employee is:

- A. Inducted, enlists or is called to active duty in the Armed Forces of the United States, or service in the Merchant Marines, under any Act of Congress which provides that the employee is entitled to reemployment rights.
- B. On duty with the National Guard or any other Military agency;
- C. Absence due to industrial injury;
- D. On approved leave of absence; and
- E. Absence due to layoff for a period of less than one (1) calendar year.

ARTICLE 8. SICK LEAVE

1. Accrual.

Every person who is full-time regular employee of the District shall be entitled to receive eight (8) hours of sick leave with pay for each full calendar month of regular employment. Regular part-time and seasonal employees shall accumulate sick leave credit on a pro-rata basis. Employees shall accumulate sick leave credit from their first day of employment, but cannot use such leave prior to the completion of the equivalent of six months of full-time employment. If an employee takes sick time off, they shall use whatever accumulated sick time, then personal time, during the period they are sick and away from work.

2. Approved Use of Sick Leave.

Use of sick leave is limited to:

- A. An employee's illness or injury. Use of more than three (3) consecutive days for this reason may require a doctor's or license practitioner's certificate indicating absence from work was necessary.
- B. An employee's dental, eye or other physical or medical examination or treatment by a licensed practitioner and illness of other family members (as defined in subsection "C" following) requiring the presence of the employee. Unless other

wise approved, leaves for this purpose is limited to four (4) hours in any one workday.

- C. In the event of serious illness in the immediate family, an employee may be authorized to use up to forty (40) hours of sick leave if the employee's presence is required. Additional sick leave may be used with Supervisor's approval.

3. Notification.

An employee shall notify his/her supervisor or the next appropriate contact fifteen (15) minutes before the start of his/her scheduled work shift if he/she is to be absent.

4. Planned Sick Leave.

Time of taking sick leave for medical services must be coordinated with the supervisor to meet the District workload.

5. Holidays During Sick Leave.

If a holiday for which an employee is entitled occurs during the time an employee is absent on sick leave, he/she shall receive pay for the holiday as such, and it shall not be counted as a day of sick leave.

6. Integration With Workers' Compensation.

When an employee is absent by reason of injury arising out of and in the course of his/her employment with the District, and is eligible for Worker's Compensation, he/she shall receive earned sick leave benefits for the duration of temporary absence. An employee must apply for the Worker's Compensation benefits and then return all monies received thus for the work injury to the District for integration with the employee's sick leave benefits. Should the employee's sick leave benefits become exhausted and the employee is still disabled, he/she is entitled to any further disability monies received.

7. Integration With State Disability Insurance.

When an employee is absent by reason of non-occupational injury, the employee is eligible for State Disability Insurance. Accrued sick leave shall be integrated in accordance with State Regulations.

8. Abuse of Sick Leave.

The District and the Association will cooperate to whatever extent possible to prevent misuse or abuse of sick leave benefits. Sick leave is intended to help prevent an employee's loss of wages due to personal illness. In cases where sick leave abuse or excessive use is apparent, the District may require any use to be verified by acceptable proof of illness. The use of sick leave for reasons such as dental or medical appointments must be cleared in advance and approved by the employee's supervisor.

9. The Parties agree to continue a program originally called "Alternative Sick Leave Incentive Plan" under the following conditions:

- A. For those employees who use no more than two (2) days of sick leave during the twenty-six pay periods of the calendar year, they shall be granted two additional eight (8) hour floating holidays with pay (to be schedule in the same manner as vacation) for subsequent calendar year.
- B. For those employees who use no more than four (4) days of sick leave during the twenty-six pay periods of the calendar year, they shall be granted one additional eight (8) hour floating holiday with pay (to be scheduled in the same manner as vacation) for the subsequent calendar year.

This plan does not require the forfeiture of any accrued sick leave to receive the additional floating holiday(s).

10. PERS Credit for Unused Sick Leave.

Credit for unused sick leave shall be applied to enhance service credits with the PERS retirement program.

ARTICLE 9. HOLIDAYS

1. Holidays Defined.

District employees, except as otherwise provided herein, will be entitled to the following holidays off with pay:

- A. New Year's Day (and one-half (1/2) day before New Year's Day)
- B. Martin Luther King Day
- C. President's Day
- D. Memorial Day
- E. Independence Day
- F. Labor Day
- G. Veteran's Day
- H. Columbus Day
- I. Thanksgiving Day
- J. Friday after Thanksgiving Day
- K. Christmas Day (and one-half (1/2) day before Christmas Day)
- L. Personal Business Day

2. Holidays Observed.

For employees who are on a standard work week, when a recognized holiday listed here falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a day listed here falls on a Saturday, the previous Friday shall be deemed to be the holiday in lieu of the day observed.

3. Holiday Compensation.

All holidays, as set forth herein, shall have payment guaranteed. Holiday compensation shall be administered as follows:

- A. In the event an employee works on a holiday, the employee shall receive eight (8) hours of holiday pay plus overtime compensation for all time worked;
- B. In the event the employee takes the holiday off the employee shall receive eight (8) hours of holiday pay;
- C. In the event the employee's regularly scheduled day off falls on a holiday, the employee shall declare his or her holiday for an alternative day and shall receive eight (8) hours of holiday pay for that day. In the event the employee works on his or her declared holiday, the employee shall receive overtime compensation for all time worked and eight (8) hours of holiday pay. In the event the employee works an alternative shift schedule (such as 10 or 12 hours days) and takes the holiday off, the employee shall receive (8) hours of holiday pay and shall make up the remaining hours for that day from his or her leave banks.
- D. Holiday pay may be taken by the employee in the form of either eight (8) hours equivalent of cash or CTO, at the employee's option if approved by the supervisor.

E. Regular part time employees, who work at least 50% time, shall receive holiday pay on a pro-rata basis from the District.

4. Eligibility.

If an employee is absent from work on either the workday prior to the holiday or the workday following the holiday, without prior permission or a bona fide reason as determined by the District, he/she will not receive pay for the holiday.

5. Work on a Holiday.

Notwithstanding the foregoing, employees who work holidays will, in addition to their holiday, be compensated therefore at the overtime rate of pay from all time worked on such days. The maximum combination of overtime and holiday pay shall not exceed two and one-half (2-1/2) times base rate in any event.

6. Personal Business Day.

The Personal Business Day will be granted on any normal eight (8) hour workday with prior supervisor approval. Approval will be granted if the District can maintain the desired level of public service without the employee. This day must be used during the calendar year or will be forfeited. If an employee resigns or is terminated and has not used his or her Personal Business Day, he or she will not be paid for the holiday.

ARTICLE 10. VACATIONS

1. Accruals.

Employees of the District shall be entitled to vacations with pay as follows:

- A. Beginning the first day of employment through six (6) months, vacation benefits are accrued but cannot be used. After attaining six (6) months seniority, vacation benefits may be used. On each anniversary date thereafter, an employee will accrue and be entitled to eighty (80) hours vacation.
- B. Beginning with the fourth (4th) year of service and each anniversary date thereafter, an employee will accrue and be entitled to one hundred twenty (120) hours vacation with pay.
- C. Beginning with the tenth (10th) year of service and each anniversary date thereafter, an employee will accrue and be entitled to one hundred sixty (160) hours vacation with pay.
- D. Beginning with the fifteenth (15th) year of service and each anniversary date thereafter, an employee will accrue and be entitled two hundred (200) hours vacation with pay.

2. Use of Vacation for Sick Leave.

The District will not require an employee to take his/her vacation in lieu of sick leave of absence on account of illness.

3. Payoff on Termination.

Upon the termination of an employee's services with the District, he/she shall be paid a lump sum for all accrued vacation that he/she has earned but not used in accordance with this Memorandum of Understanding on the normal pay period following termination. Persons dismissed will be paid according to law.

4. Vacation Scheduling.

The times during which an employee may take vacation shall be determined by the Department Head or Designee. The Seniority system will be used to schedule vacations. An employee shall provide his/her supervisor with adequate advance notice of a desire to change a scheduled vacation or initiate a vacation request. An employee may be requested to take vacation only at times when the District can maintain desired level of public service without the employee.

5. Carryover To Subsequent Year.

In the event an employee is not able to take all of the vacation to which he/she is entitled in a calendar year, he/she shall be permitted to accumulate the unused portion of his/her credit, provided that by the final day of the final pay period in any calendar year, he/she shall not have a total credit of more than one-hundred sixty (160) hours of vacation. In unusual circumstances and with Division Head approval, an employee who has been denied vacation in the final quarter of the year shall be allowed to use during the first 90 days of the following year any requested leave which caused the employee to exceed the 160 hour limit.

6. Pay In-lieu of Vacation.

Pay in lieu of vacation is not allowed.

ARTICLE 11. LEAVE OF ABSENCE

1. General Approval.

Leave of absence may be granted by the Manager to regular employees providing satisfactory arrangements can be made to perform the employee's duties without undue interference with the normal routing of work up to one (1) year.

2. Commencement.

A leave of absence will commence on and include the first workday on which the employee is absent and terminates with and includes the workday preceding the day the employee returns to work.

3. Status While On Leave.

An employee's status as a regular employee will not be impaired by such leave of absence and his/her seniority will accrue, however, contractual benefits will not be paid by the District. An employee will have the option to continue medical coverage if the cost of the premium is paid by the employee.

4. Return From Leave.

If an employee fails to return immediately on the expiration of his/her leave of absence or if he/she accepts other employment while on leave, he/she will thereby forfeit the leave of absence and terminate his/her employment with the District.

5. Other Leaves of Absence.

Employees may be granted extended leaves of absence under certain circumstances. Except as stated below, employees will not receive compensation during a leave of absence.

A. Employees may be eligible for leaves of absence if they have completed a minimum of one year of service. The duration of each leave of absence and the compensation received by the employee, if any, during the leave of absence shall be determined by the District except as otherwise mandated by law. All paid time

off must be used prior to the leave unless waived by the General Manager except for Family Leave which has a different provision. The following types of leave can be requested:

- 1) **Department Leave:** Short term leaves of absence of up to five consecutive working days without pay may be granted by the Department Head in instances where an employee is ill but does not have any accumulated vacation or sick leave to cover the absence. The granting of a leave will usually be after the fact and can be processed utilizing the payroll time sheet with an appropriate notation or code.
- 2) **Medical Leave of Absence:** (less than 12 months of service): Employees who are unable to work because of an illness or non-work related disability, and whose illness or disability is expected to continue for more than five consecutive working days plus all paid time off may be granted a leave of absence up to twelve (12) months. The District may require certification, on a periodic basis, of an employee's continuing illness or disability by the employee's physician and/or physician selected by the District.
- 3) **Family Leave:** Family Leave may be taken by an employee consistent with the federal Family Leave Act (FMLA) and the California Family Rights Act (CFRA). An employee may take 12 weeks of unpaid leave during any 12-month period and have their job protected for them when they return to the District. To qualify, an employee must have worked for at least one year for at least 1250 hours for EID in the year before the leave is taken. Allowed reasons to take Family Leave include bonding with a newborn child or a child placed with the employee by adoption or foster care; care for a child, parent or spouse who has a serious health condition; or the employee's own serious health condition. During the leave, EID will continue to pay its share of premiums for health plans. EID may require medical certification of the serious health condition used for Family Leave, and may require a release from the employee's medical care provider before the employee returns to work. EID may require the employee to use accrued vacation time if the leave is for a reason other than pregnancy disability. If the employee does not return to work, their job will not be protected and EID may recapture health care premiums/expenses that were paid during the leave.
- 4) **Personal Leave of Absence:** Employees may be granted a personal leave of absence up to twelve (12) months to attend to personal matters in cases in which the District determines that an extended period of time away from the job will be in the best interests of the employee and the District.
- 5) **Military Leave of Absences:**
 - (a) A military leave of absence will be granted if an employee enlists, is inducted, or is recalled to active duty in the Armed Forces of the United States for a period of not more than five (5) years (plus any involuntary extension for not more than one year). Employees who perform and return from military service in the Armed Forces, the military Reserves, or the National Guard shall have and retain such rights with respect to reinstatement, seniority, vacation, lay-offs, compensation, and length of service pay increases.
 - (b) Upon satisfactory completion of military service and timely notice of intent to return to work, an employee will be reinstated to a job comparable to the one the employee left, provided the

employee is qualified and the District's circumstances have not changed to the extent that it would be impossible or unreasonable to provide reemployment. Employees recalled to service for more than 180 days must reapply for a job within 90 days after being released from active duty. (c) Reservists and National Guardsmen returning from initial active duty for training must apply for reinstatement within 31 days after being released from military duty. Employees returning from all other active duty for training must report to work on the first scheduled working day following completion of training. If an employee, on return from military service, is physically unable to perform the duties of the employee's previous job, the District will attempt to place the employee in a position of similar status and pay that is compatible with the employee's physical abilities.

Employees with one year or more of service will be protected against loss of income as a result of participation of annual encampment or training duty in the U.S. military Reserves or the National Guard. In these circumstances, the District will pay the difference between what an employee earns from the government for military service and what the employee would have earned as normal straight-time earnings on the job. This difference will be paid for up to two weeks in a calendar year.

- 6) **Educational Leave of Absence:** Employees who desire to continue their education in preparation for added responsibilities with the District may be granted an educational leave of absence up to twelve (12) months.
- 7) **Public Service Leave of Absence:** Employees who desire to accept temporary employment in federal, state, or local government in an exchange program or some similar program or with an organization devoted to community service may be granted a public service leave of absence up to twelve (12) months.
- 8) **Administrative Leave:** Under certain circumstances it may be in the District's best interest to require an employee not to report to work e.g. the period of time between the notice of intention to terminate and the date that was set for the employee's oral or written response to the charges. This period of time would be with pay.
- 9) **Rehabilitation:** Employees who are experiencing a problem with drug or alcohol abuse may be granted a leave to undertake rehabilitation treatment. The employee will not be permitted to return to work until certification is presented to the Human Resources Director that the employee is capable of performing his/her job.
- 10) **Children's School Activities:** Employees who have children in grades Kindergarten through 12 can take up to 40 hours off each school year, but not more than 8 hours in any calendar month, to attend or participate in sanctioned school activities. Reasonable notice must be given and the District may require verification of the activity and attendance at the activity. The employee shall use vacation, administrative time, compensatory time or personal business day for the absence. In the event that there is a zero balance in all of these then time off without pay can be requested.

Where both parents, grandparents with custody, or guardians, are employees of the District and where both are making a request only the parent or guardian whose request was received first will be allowed to

time off unless the District approves time off for the other parent or guardian.

It is unlawful in California to discriminate in any way against employees for requesting and taking time off for their children's school activities.

11) **Bereavement Leave:**

(a) The District recognizes that employees may require a reasonable time away from work upon the death of an immediate family member. The District's paid bereavement leave is intended to enable employees to travel if necessary and to attend the funeral of an immediate family member.

(b) Up to three days of leave with pay will be granted to fulltime employees for each death in the employee's immediate family. The immediate family of an employee is the spouse, registered domestic partner, child or stepchild, grandchild, parent or stepparent, sister or stepsister, brother or stepbrother, grandparent, son-in-law or daughter-in-law, sister-in-law or brother-in-law, mother-in-law or father-in-law or others who reside in the same household with the employee.

(c) If the employee needs to take additional leave, she/he may take annual leave, personal leave or leave without pay. Bereavement leave is granted on an as-needed basis. Employees do not accrue (earn) bereavement leave.

(d) The Director of Human Resources and the General Manager may grant additional leave in unusual circumstances of long-term care or hospice for an immediate family member.

- B. When possible, requests for a leave of absence, or any extension of a leave of absence over 5 consecutive days in duration, must be submitted in writing to the employee's Department Head thirty days prior to commencement of the requested leave period or extension when the need is foreseeable. The Department Head will forward the request to the General Manager recommending approval or disapproval. The final decision concerning the request will be made by the General Manager.
- C. Except as otherwise mandated by Federal/State laws, employees returning from a leave of absence will be reinstated to their same job or one of similar status and pay provided the District's circumstances have not changed to the extent that it would be impossible or unreasonable to provide reinstatement. If the same job or one of similar status and pay is not available, reinstatement may be deferred until a position is available, and the employee may be granted a preference in recall. Employees returning from a military leave must also comply with all of the reinstatement provisions of item (1)(e), above.
- D. Employees must notify the District within 24 hours of arrest and incarceration to be placed on a personal leave of absence in accordance with (1)(d). If the employee is unable to secure bail, the leave of absence will continue until final disposition of the charges. If the employee is freed on bail, a decision whether to allow the resumption of active employment pending disposition of the charges will be made by the employee's Department Head and the General Manager. They shall determine whether reinstatement would be consistent with the District's needs and requirements.
- E. If an employee fails to return to work at the conclusion of an approved leave of absence, the employee will be terminated from employment provided that a reasonable effort, as determined solely by the District, has been made to establish why the employee has not returned.

- F. Extensions of Leaves, except for military leaves, beyond 12 months, but not longer than an additional 12 months, may be granted by the General Manager with a justifiable recommendation by the employee's Department Head or the District Manager acting alone.

ARTICLE 12. MISCELLANEOUS LEAVES WITH PAY

An employee shall be granted pay for leave of absence caused by:

- 1) Jury service; Jury compensation received by the employee shall be remitted to the District's Accounting Department, except mileage and parking fees. The employee may elect to take time without District pay in lieu of extra compensation.
- 2) Appearance legally required of him/her as a witness as opposed to a litigant or named Party.
- 3) Attendance in court resulting from his/her official duties.

ARTICLE 13. INCLEMENT WEATHER PRACTICE

1. **Report for Duty.**

Employees who are directed not to work in the field because of inclement weather or other similar causes will receive pay for the full day, provided they have reported for duty. During such day they may held pending emergency calls, may be given first aid, safety or other instruction, or they may be required to perform miscellaneous duties as assigned.

2. **Temporary Employees.**

Temporary employees who are directed not to work in the field because of inclement weather or other similar causes will be paid only for the time they worked or are held by the District, except, however, they will be paid for not less than two (2) hours as "show-up" time unless twelve (12) hours prior notice is given.

3. **Rain Gear.**

If employees are required to work during inclement weather, the District will provide all-weather clothing appropriate for the weather and conditions at the time. All-weather clothing issued by the District shall be uniform throughout the District, including rain gear and all-weather gear when needed. This gear shall be safety orange or an equivalent safety color. The gear shall be the property of the District and issued to the employee for work use only. The employee shall sign for the gear when issued to them and agree to pay for the gear if it is lost or stolen. When the gear has reached its useful life or is damaged, the employee shall return the gear and be re-issued either new or reconditioned gear. If the gear is not returned or it is lost or stolen, the employee shall pay the District the replacement value of the gear issued to them.

4. **Inability to Report.**

Employees unable to report to work because of inclement weather (i.e., "snow days") will be able to use accrued vacation hours, their Personnel Business Day or receive no compensation.

ARTICLE 14. EXPENSE REIMBURSEMENT

1. **Personal Vehicle Use.**
When an employee is required to use his/her personal vehicle for the District's convenience, he/she will be reimbursed therefore at the rate currently allowed by the IRS.

2. **Meal Reimbursement When Unexpectedly Called Back to Work.**
If the District unexpectedly requires an employee who is not on standby to perform work for at least two (2) hours contiguous to and beyond regular work hours, it will provide him/her with a meal and with additional meals at intervals of approximately four (4) hours, but not more than five (5) hours, insofar as it is possible for the District to do so. Employees on assigned standby duty shall be expected to provide for anticipated meal requirements, but will be allowed up to one-half (1/2) hour meal period and a paid meal after approximately four (4) hours of continuous work during non-scheduled hours if unable to return to standby at that time.
Non-standby employees (and Standby employees eligible for a second meal) shall be paid meal reimbursement in the amount of \$23.00, which represents reimbursement for the cost of a meal and the incumbent time associated with that meal. No additional paid time shall be allowed for this meal period.

3. **Training Expenses.**
 - A. When an employee has been assigned or is required or mandated to receive training or attend a conference or seminar away from his/her normal workstation, or attend training that is offered by the District, the District will pay for reasonable expenses including meals, fees, tuition, transportation, lodging, bridge tolls, parking fees and other approved, related expenses.
 - B. Employees can be reimbursed for certain job related educational expenses with prior written approval by the Director of Human Resources on Form PD 12, Educational Reimbursement Expenses. Funds for all such reimbursements will be charged to the department's budget.
 - C. Voluntary training selected by an employee that is not required by the District nor required by the employee's job duties or job classification will not be reimbursed by the District. Further, time off to attend voluntary training will not be paid by the District and the employee must use vacation or leave time accrued by them for this time away from the job.

ARTICLE 15. ACCEPTANCE OF GIFTS/NEPOTISM

1. Acceptance of Gifts.

In the interest of holding to the highest standards of integrity and impartiality, employees shall not solicit nor accept favors or gifts from the public served by the District, or from persons who seek to sell goods or services to the District, or from other person or corporation. The only exception shall be an unsolicited, non-monetary gift of merchandise or other token of appreciation with a retail value of less than \$25.00 per year.

2. Employee Code of Conduct.

The District and the Association agree that a Code of Conduct for all employees is in the best interest of all parties and the public. Accordingly, the Code of Conduct previously agreed to by the District and the Association on February 25, 2004, is incorporated into this Memorandum of Understanding as Appendix B to this MOU.

3. Nepotism.

It is the District's policy that near relatives of District employees will not be employed if:

- a. one member would have the authority or be in a position to supervise, hire, remove or discipline, the other; or
- b. one member would be responsible for auditing or formally evaluating the work of the other; or
- c. other circumstances exist which would place the relatives in a situation on actual or reasonably foreseeable conflict between the District's interest and their own.

Procedure:

Request to Hire. When a department wishes to hire an employee's near relative, the department director should submit a written request to the Human Resources Director. The Human Resources Director is responsible for making a recommendation, to appoint or not appoint, to the General Manager.

Near relatives include an employee's child, parent, spouse, brother, sister, in-laws and step relationships.

Relationship Occurring During Employment. When a relationship, as described above occurs during employment, the two employees may remain in their positions provided they are not in conflict with the restrictions stated in this policy. If a conflict is created by the relationship, the District will attempt to arrange a transfer or change in position. If a suitable transfer/change in position is not available, one of the employees will be separated from District employment. Every attempt will be made to effect transfer or separation on the basis of agreement between the employees involved and the District. If a mutual agreement is unattainable within 45 days, the General Manager will determine, in the District's best interest, which employee is to be transferred or separated.

Preferential Reinstatement Post Separation. In the event an employee is separated from the District due to an unresolved conflict created by "relationship occurring during employment," as discussed above, the separated employee will be offered an appointment with the District if he or she is qualified for a vacancy. The preferential reinstatement period will last no longer than one year from the date of his or her separation, provided the appointment is consistent with this and other District policy.

ARTICLE 16. APPEARANCE AND UNIFORMS

1. Appearance.

The District and the Association agree that conduct, dress and appearance of employees are important to the success of both. Therefore, employees are expected to be neat in appearance and dress, and conduct themselves in accordance with reasonable standards of behavior. Employees are also expected to dress appropriately and consistent with the job site and location, job responsibilities, and safety issues or hazardous conditions that may exist.

2. Uniforms.

The District will provide the following uniform and safety apparel on an as needed basis depending upon the work to be performed:

- A. Standard Issue:
 - Rain Gear: Jacket with hood
 - Pants
 - T-shirts
 - Baseball Cap
 - Long Sleeve Shirt(s)
 - Short Sleeve Shirt(s)
 - Hard Hat
 - Leather Gloves
- B. Optional Issue:
 - Knee Boots
 - Hip Boots
 - Rubber Gloves
 - Snow Boots
 - Disposable Coveralls
 - Regular Gloves

ARTICLE 17. OFF DUTY WORK

1. **Outside Employment Restriction.**

Employees of the District will not participate in employment by other agencies or parties when conflicts of time or conflicts of interest might foreseeably occur.
2. **Conflict of Interest.**

Employees of the District will not perform any task for another party when the other party has a current or pending relationship with the district involving a contract permit, license, etc.
3. **Use of District Equipment and/or Materials Not Authorized.**

At no time will an employee utilize District equipment or materials to perform non-EID work.
4. **Scheduling Conflicts.**

At no time will an employee arrange or accept outside work schedules which conflict with District needs or affects his/her work performance.

ARTICLE 18. SAFETY

1. **A Safe and Secure Place of Employment.**

Jointly, the District and the Association desire to maintain a safe place of employment and to that end District management shall make all reasonable provisions necessary for the safety and security of employees in the performance of their work. Employees and the Association shall make all reasonable efforts to cooperate with those provisions.

This *joint effort* is established to eliminate or control both known and potential safety and health hazards that our employees face on the job. To accomplish this, the District relies on the strict enforcement of its "*Injury and Illness Prevention Program*" (IIPP), (Appendix C).

Within the IIPP, each employee has an individual responsibility in assuring workplace safety through active participation in this program and by following the policies and procedures incorporated throughout the District. Management believes this is a sound business practice where everyone benefits and, as such, is considered an integral part of our operations.

The IIPP is implemented as a “*continuous improvement*” type program and will be reviewed and/or revised at least annually. At a minimum, it will specify and address the following elements:

- Identify by name and title those person(s) responsible for the program.
- The District’s system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.
- The District’s methods and procedures for correcting unsafe or unhealthful work practices and conditions in a timely manner.
- An occupational health and safety-training program designed to instruct employees general safe and healthy work practices and to “hazards” specific to each employee’s job assignment.
- A procedure to investigate occupational injuries and illnesses.
- The District’s system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to identify and report hazards at the work site without fear of reprisal.
- The District’s system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action for failure to comply.

Management recognizes the need to assure a safe, secure and healthful work environment for its employees, contractors and visitors, and will continue to modify the IIPP to achieve an effective Occupational Health and Safety curriculum.

2. Tailgate Meetings.

Regular “tailgate” safety meetings will be held on a bi-weekly basis.

3. Safety Committee Meetings.

Regular safety committee meetings will be held for the purpose of reviewing accidents and preventing their recurrence, eliminating hazardous conditions and familiarizing employees with safe work procedures and applicable State Safety Orders and for training in first aid. It is understood that one member of the committee who is an Association member may be designated by the Association to represent its views.

4. Notification of Association.

In the event of an accident resulting in serious injury or death of an employee of the District, the District will notify the Association within a reasonable period of time.

5. Disciplinary Action For Safety Violations.

All employees not adhering to all District safety orders shall be subject to disciplinary action.

ARTICLE 19. JOB POSTINGS AND TRANSFERS

1. **Posting of Vacancies.**

When a unit job is to be filled and no eligibility list for that classification exists, the District shall post vacancy notices on all bulletin boards and a copy shall be mailed to the Association.

2. **Content and Period of Posting.**

Vacancy notices shall be posted for a period of five (5) working days and shall set forth the date of posting, the classification and location of the job, its duties, qualifications required and the rate of pay.

3. **Applying for Vacancies.**

On forms provided by the District, employees may submit applications for the vacancies. To be given consideration by the District, such application must be submitted before the end of the posting period. In filling jobs, the District shall give consideration to the knowledge, skills, abilities and seniority of the applicant. All current employees who meet the minimum qualifications and apply for a bargaining unit vacancy shall be invited to participate in the recruitment process, which could include testing and/or an interview. Employees may also apply for non-bargaining unit vacancies.

4. **Notice of Vacancy Filled.**

Within two (2) working days after the vacancy is filled, the District shall post a notice regarding the disposition of the posted vacancy. The notice shall set forth the name of the successful applicant and a copy shall be sent to the Association.

5. **Involuntary Transfer.**

An employee may be transferred at any time from one position or location to another position or location in the same classification. The General Manager may order a transfer for the purposes of economy, efficiency or for reasons related to the best interests of the District.

6. **Voluntary Transfer.**

A request for transfer to a vacant position may be initiated by an employee or the employee's department head. The transfer of an employee from one department to another shall require the approval of the head of the department to which the employee is transferring as well as the Human Resources Director. A department head may consider requests for transfers concurrently with pending decisions on employment, reemployment or promotion opportunities. No examination is required of an employee requesting a transfer; however, the employee must possess the qualifications required for the position sought.

ARTICLE 20. LAYOFF

1. **Purpose for Layoffs.**

For reasons of economy, lack of work, lack of funds, or for operational reasons reductions in the number of employees in a classification may be required. Whenever necessary in the judgment of the Board of Directors, it may abolish any position or

employment and the employee holding such position or employment may be laid off in accordance with the procedures provided for in this Article.

2. Abolition of Position(s).

When layoffs are to occur, the General Manager shall prepare a list of those positions to be abolished in each department. For each affected department, the General Manager shall assemble a list of those employees within the classification designated for a position abolition. Such list shall be forwarded to the appropriate department head. The department head shall prepare a list establishing the order of employee layoffs within a classification. Determination of which employees are to be laid off will be based upon the following randomly listed factors: seniority, qualifications and operational needs of the department. Qualifications shall include such factors as knowledge, skills, abilities and certification. Where all other factors are approximately equal seniority shall control. In this order, temporary, interim, seasonal and probationary employees shall be terminated prior to the layoff of any regular employee within the same classification in the department. When the parties cannot agree upon whether or not the layoff imposed has been in compliance with the criteria found in this Section, said dispute shall be submitted to a recognized expert in labor relations, appointed to make a recommendation on the matter to the General Manager.

3. Reinstatement List.

A laid off regular employee shall be carried for up to one (1) year on a reinstatement list, and shall be entitled to reemployment consideration for any position for which he or she is qualified. Placement on such list does not assure reemployment for any particular vacancy, but does not assure eligibility for consideration. Any reinstated employee shall serve an initial probationary period as specified in Article 2 and be subject to a pre-employment medical examination and drug screen.

ARTICLE 21. DISTRICT RIGHTS

1. Except as specifically abridged, delegated, granted or modified by this Memorandum of Understanding, or any supplemental agreements that may hereafter be made, all the rights, powers and authority the District has prior to the signing of this Memorandum of Understanding, are retained by the District, and remain exclusively and without limitation within the rights of management which are not subject to grievance procedure and/or arbitration. The rights retained as exclusive District rights include, but are not limited to the following rights to:
 - A. determine its mission and the mission of its constituent departments;
 - B. set standards and levels of service;
 - C. determine the procedures, qualifications and standards of selection or employment and promotions;
 - D. establish, modify, determine, or eliminate job classifications, class titles, and the proper inclusion or assignment of District positions into such classifications;
 - E. direct and supervise the work of its employees, including the right to require overtime; to hire, promote, demote, transfer, suspend and discipline or discharge employees;
 - F. determine the methods and means to relieve its employees from duty because of lack of work, lack of funds, operational needs, or other lawful reasons;
 - G. maintain the efficiency of District operations;
 - H. determine the methods, means and numbers and kinds of personnel by which District operations are to be conducted;

- I. determine the content, intent and titles of job classifications;
- J. determine methods of financing;
- K. determine style and/or types of District-issued wearing apparel;
- L. determine and/or changes the facilities, methods, technology, means, organizational structure and size and composition of the work force;
- M. determine and change the number of locations, relocation and types of operations, processes and materials to be used in carrying out all District functions including, but not limited to, the right to contract for or subcontract any work or operations of the District.;
- N. assign work to and schedule employees in accordance with requirements as determined by the District and to establish and change work schedules and assignments upon reasonable notice;
- O. establish and modify productivity and performance programs and standards including determination of meritorious service and rewards therefore;
- P. plan, organize, direct and control all operations;
- Q. make such changes as are required by law during the contract period; and
- R. prepare for and operate in an emergency, as determined solely by the Board.

ARTICLE 22. GRIEVANCE PROCEDURE

1. Definitions.

- A. Grievance. A grievance is a claimed violation, misapplication, or misinterpretation of a specific provision of this Agreement, which adversely affects the grievant. Disciplinary actions, performance evaluations, and the exercise or lack of exercise of District Rights (Article 21) shall not be grievable.
- B. Grievant. A grievant is an employee in the unit who is filing a grievance as defined above. Alleged violations, misapplication, or misinterpretations which affect more than one employee in a substantially similar manner may be consolidated at the discretion of management as a group grievance and shall thereafter be represented by a single grievant. Any employee in the bargaining unit may file a grievance under this grievance procedure whether or not that employee is an Association member.
- C. Day. Unless otherwise defined, for the purposes of this Article “day” shall mean a calendar day.

2. Process.

- A. Informal Resolution. Within seven (7) days from the event giving rise to a grievance or from the date the employee could reasonably have been expected to have had knowledge of such event, the grievant shall orally discuss his/her grievance with his/her immediate supervisor. A supervisor shall have five (5) days to give an answer to the employee.
- B. Formal Levels
 Level 1: If a grievant is not satisfied with the resolution proposed at the informal level, he/she may within seven (7) days of such receipt of such answer file a formal written grievance with the Human Resources Director on a form containing a statement describing the grievance, the section of this Agreement allegedly violated, and remedy requested. The Human Resources Director (or designee) shall, within seven (7) days have a meeting with the grievant and within fourteen (14) days thereafter give a written answer to the grievant on the form provided.

Level 2: If the grievant is not satisfied with the written answer of the Human Resources Director, the grievant may, within seven (7) days from the receipt of such answer, file a written appeal, the General Manager or his/her designee, shall investigate the grievance which may include a meeting with the concerned parties and, there after give written answer to the grievant within fourteen (14) days, which answer shall be final and binding unless appealed to Level 3 within seven (7) days from receipt of such answer.

Level 3. If the grievant is not satisfied with the written answer from the General Manager, the grievant, through the Association, may appeal that decision to an External Hearing Officer, who will hear the issue and make a recommendation to the Board of Directors according to the provisions of the External Hearing Officer procedure.

3. External Hearing Officer.

If, within the seven (7) day appeal period, the Association files a notice of appeal to the External Hearing Officer (EHO) by giving to the Human Resources Director written notice of appeal, then a time for an appeal hearing before an External Hearing Officer shall be established which shall not be less than fourteen (14) days, nor more than sixty (60) days from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing at least five (5) days prior to the hearing.

- A. The EHO shall be selected by requesting a list of nine (9) labor arbitrators from the American Arbitration Association and following the organization's selection procedure.
- B. All hearings shall be private.
- C. The hearing shall be conducted in a manner most conducive to determinations of the truth. The Voluntary Labor Arbitration Rules promulgated by the American Arbitration Association shall be used by the EHO as a guide in ruling on evidentiary matters.
- D. Each party shall have the right to be represented by legal counsel or other person of his/her choice; to call and examine witnesses on any matter relevant to issues; to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though such matter was not covered on direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the grievant does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Every witness shall declare by oath or affirmation that he/she will testify truthfully.
- E. The EHO shall determine whether to sustain or reject the grievance; such determination shall be delivered to the Board of Directors as a report with findings and recommendations, which shall be advisory to the Board. The Board shall consider the report and its recommendation and make a final and binding decision with regard to the disposition of the grievance.
- F. Mutually incurred costs for the Hearing Officer, court reporter if used and other procedural fees shall be divided equally between the District and the Association. Each party shall pay for its own counsel, witnesses, and other separately incurred costs.
- G. The jurisdiction and authority of the EHO and his/her opinion and award shall be confined exclusively to deciding properly filed grievances, as defined (in Section A 1) above which are filed during the stated term of this Agreement by a grievant as defined (in Section A2) above. She/he shall have no authority to hear or decide

issues of procedural or substantive arbitrability; to add to or detract from, alter, amend, or modify any provision of this Agreement; to impose on either party a limitation or obligation not explicitly provided for in this Agreement; or to Establish or alter any wage rate or wage structure. The EHO shall not hear or decide more than one (1) grievance without the mutual consent of the District and the Association.

- H. The written award of the EHO on the merits of any appeal adjudicated within his/her jurisdiction and authority shall be advisory to the District's Board who shall make a final decision on the matter.

4. General Provisions.

- A. If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized.
- B. If a management representative fails to respond with an answer within the given time period, the grievant may appeal his/her grievance to the next higher level as if a negative response had been received on the final day for the decision.
- C. The grievant may be represented by a person of his/her choice at any formal level of this procedure.
- D. Time limits and formal levels may be waived by mutual written consent of the parties.
- E. Should a dispute arise as to whether an issue is grievable, the parties may agree to submit such dispute to a disinterested third party to make the threshold decision as to whether the issue should be heard by an EHO. This disinterested Third Party shall not make a decision as to the merits of the grievance, only whether it is wholly within the definition of a grievance, is timely filed, and was filed in accordance with the negotiated grievance procedure. Any costs of the third party shall be shared equally.
- F. Proof of service shall be accomplished by certified mail or personal service.
- G. In the event the Grievant is either not an Association member or is proceeding with a grievance that is not Association sponsored, the District may require the Grievant to post a reasonable estimate of anticipated expenses with the General Manager's office, within at least fourteen (14) days prior to the first day of hearing before the EHO.

ARTICLE 23. DISCIPLINARY ACTION

1. Basis for Disciplinary Action.

The tenure and status of every unit employee is conditioned on reasonable standards of personal conduct and job performance. Examples of conduct or omissions constituting cause for disciplinary action are listed in the District's Personnel Rules. All employees of the bargaining unit shall have access to the disciplinary appeals procedure described herein whether or not the employee is a member of the Association and/or represented by the Association in any disciplinary appeal.

2. Types of Discipline.

Three types of discipline are recognized for purposes of applying one of the procedures under this article, they are:

- A. Written Reprimands. A reprimand, the details of which are committed to writing and placed in the employee's personnel file.
- B. Short Suspensions. Suspensions without pay for periods up to and including three (3) working days.

- C. Severe Disciplinary Action. Suspensions without pay of four (4) working days or longer, demotion, or discharge.

3. Appeal from a Written Reprimand.

An employee receiving a written reprimand may, within five (5) days, appeal such action to the Department Head (or his designee) in writing or by personal interview. Within five (5) working days thereafter, the Department Head (or his designee) shall respond to the employee in writing by either granting or denying the appeal. Such response shall be final.

4. Appeal from a Short Suspension.

An employee receiving a suspension without pay of one (1) through three (3) working days, shall be afforded the opportunity to clear him/herself by direct appeal to the General Manager within five (5) days of receipt of the notice of suspension. Within fourteen (14) days, the General Manager (or designee) shall conduct a meeting to hear the appeal and within fourteen (14) days thereafter shall make a final and binding decision on the matter.

5. Appeal from a Severe Disciplinary Action.

An employee receiving a proposed suspension of more than three (3) working days, demotion to an established classification with a lower maximum pay range, or discharge shall be notified of the charges and have the opportunities to appeal as described below:

- A. *Notice.* The employee shall be advised in writing of proposed disciplinary action when such action is to result in demotion, suspension without pay, or discharge.

The written statement shall contain:

- 1) A description of the events which necessitated the proposed suspension;
- 2) A statement of the charges;
- 3) A statement of the proposed disciplinary action.
- 4) A copy of any materials upon which the proposed action is based, and, if too voluminous to copy, notification as to where may review available materials leading to the action;
- 5) A statement of the employee's right to representation; and
- 6) The right of the employee to meet with the designated management representative or to submit in writing his/her response to the proposed action at (the given time and place).

- B. *Employee's Response.* An employee's opportunity to respond to the designated management representative is not intended to be an adversary hearing. However, the employee may present witnesses in support of his/her opposition to the proposed demotion, suspension, or discharge. The limited nature of this response does not obviate management's authority to initiate further investigation if the employee's version of the facts raises doubts as to the accuracy of the supervisor's information leading to the proposed discipline. The employee may be accompanied and represented by a person of his choice during this procedure.

- C. *Management Representative's Decision.* Following a review of the proposed disciplinary action and the employee's response, if any, the designated management representative shall cause to be served on the employee his/her

decision by certified mail or personal delivery. If the proposed action is to be implemented, this Notice of Decision shall also include:

- 1) the specific charges against the employee;
- 2) the effective date of the action;
- 3) information that the employee, through the Association has the right within seven (7) days after receipt of this notice, to request in writing an appeal hearing before an arbitrator to contest the action of the management representative. The request must be filed by the Association with the Human Resources Director, and
- 4) If, within the seven (7) day appeal period the Association does not file said appeal, the action of management representative shall be considered conclusive.

D. *Appeal from Management Representative's Determination.* If, within the seven (7) day appeal period, the Association files such notice of appeal by giving to Human Resources Director written notice of appeal, then a time for an appeal hearing before an Arbitrator shall be established which shall not be less than fourteen (14) days, nor more than sixty (60) days from the date of the filing of appeal. All interested parties shall be notified in writing of the date, time, and place of hearing at least five (5) days prior to the hearing.

- 1) The arbitrator shall be selected by requesting a list of nine (9) labor arbitrators from the American Arbitration Association and following the organization's selection procedure.
- 2) All hearings shall be private; provided, however, that the appellant may request a hearing be open to the public.
- 3) The hearing shall be conducted in a manner most conducive to determinations of the truth. The Voluntary Labor Arbitration Rules promulgated by the American Arbitration Association shall be used by the arbitrator as a guide in ruling on evidentiary matters.
- 4) Each party shall have the right to be represented by legal counsel or other person of his/her choice; to and examine witnesses on any matter relevant to the issues; to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though such matter was not covered on direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the appellant does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Every witness shall declare by oath of affirmation that he/she will testify truthfully.
- 5) The arbitrator shall determine whether to sustain, reject, or modify the action demoting, suspending or discharging the employee. Such determination by the arbitrator shall be final and binding.
- 6) Mutually incurred costs for the arbitrator, court reporter if used, and other procedural fees shall be divided equally between the District and the Association, or the District and the employee if the Association does not represent the employee. Each party shall pay for its own counsel, witnesses, and other separately incurred costs.
- 7) The jurisdiction and authority of the arbitrator and his/her opinion and award shall be confined exclusively to deciding properly filed, timely appeals from Severe Disciplinary Action as defined above. The arbitrator shall have no authority to hear or decide issues of procedural or

substantive arbitrability; to add to or detract from, alter, amend, or modify any provision of this Agreement; to impose on either party a limitation of obligation not explicitly provided for in this Agreement; or to establish or alter any wage rate or wage structure. The arbitrator shall not hear or decide more than one (1) appeal without the mutual consent of the District and the Association.

- 8) The written award of the arbitrator on the merits of any appeal adjudicated within his/her jurisdiction and authority shall be final and binding on the employee, the Association, and the District.

6. Reduction in Pay.

An employee faced with disciplinary suspension may, upon mutual Agreement between the employee and the Department, agree to continue working during the period of suspension. The Employer, Association and the employee shall agree to reduce the employee's base pay a fixed percentage amount for a period not to exceed twelve (12) months or until the wage reduction reflects the loss of pay the employee would have realized by serving the suspension, whichever is sooner.

7. Exclusive Procedure.

This Article 23 shall be the exclusive procedure available to unit employees for appeals from disciplinary actions.

8. Day Defined.

Unless otherwise defined, for the purpose of this Article "day" shall mean a calendar day.

ARTICLE 24. CONTRACTING OUT

The parties, realizing that the District needs to maintain maximum flexibility in the delivery of services and operation of its component parts, agree to protect current employees in their District employment to the extent practicable. However, should the District decide to contract out a current service which directly results in the layoff of a current employee(s), it will notify the EIDEA in advance of implementation of layoff(s) and, if requested within five (5) days, meet and confer over the impact on any layoff necessitated by the contracting out decision. The parties shall meet on a weekly basis and negotiations shall conclude no later than forty-five (45) days after commencing. If no agreement is reached by that time, either party may declare impasse and the impasse procedure will be invoke. Nothing in this Agreement shall prevent the District from implementing its decision to contract out on schedule or assigning the subject employee(s) to other work while the meet and confer process is underway, providing the employee's rate of pay remains unchanged during that period.

ARTICLE 25. STRIKES AND LOCKOUTS

There shall be no strikes, slowdown, or stoppages of work by the Association, or by the employees, and there shall be no lockouts by the District during the term of this Memorandum of Understanding.

ARTICLE 26. FULL UNDERSTANDING, MODIFICATION, AND WAIVER

1. Full Understanding.

It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein and all other topics subject to bargaining, and therefore any other prior or existing understanding or Agreement by the parties, whether formal or informal, written or unwritten, regarding such matters is hereby superseded or terminated in its entirety.

2. No Interim Bargaining.

It is agreed and understood that during the negotiations which culminated in this Agreement each party enjoyed and exercised without restraint, except as provided by law, the right and opportunity to make demands and proposals or counter-proposals with respect to any matter subject to bargaining and that the understandings and agreements arrived at the exercise of that right are set forth in this Agreement. The parties agree, therefore, that the other shall not be required to negotiate with respect to any subject or matter, whether referred to or not in this Agreement.

3. Modification.

Any agreement, alteration, understanding, waiver or modification of any of the terms or provisions contained in this Agreement shall not be binding on the parties unless made and signed in writing by all of the parties to this Agreement, and if required, approved and implemented by the District's Board of Directors.

4. Waiver.

The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions. Regarding matters not covered by this agreement, the Association agrees that it has specifically waived any further right to bargain during the term of this Agreement on any subject discussed in bargaining or listed in the District Rights clause.

5. Supersession.

This Memorandum of Understanding shall supersede any documents unilaterally adopted by the District where conflicts exist regarding a subject covered herein.

ARTICLE 27. SEPARABILITY OF PROVISIONS

Should any Section, Clause or Provision of this Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such Section, Clause or Provision shall not invalidate the remaining portion hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding.

ARTICLE 28. DURATION OF AGREEMENT

This Memorandum of Understanding between the District and the Association shall become effective as of ratification of the Board of Directors and the Association membership and shall continue in full force and effect until midnight, December 31, 2009, at which time it shall expire in its entirety. Except as otherwise provided herein, either party hereto may give written notice to the other party ninety (90) days prior to its anniversary date to commence negotiation on a successor agreement. The parties shall begin meeting and conferring as soon as it is practicable after such notice has been given.

EL DORADO IRRIGATION DISTRICT

EL DORADO IRRIGATION
DISTRICT EMPLOYEE ASSOCIATION

George Wheeldon, President

Kris Eloffson, President

Ane D. Deister, General Manager

Larry Hull, Vice-President

Michael Dugan
Director of Human Resources

Kim Gillingham, EA Representative

Ray Eide, EA Board of Directors