MEMORANDUM OF UNDERSTANDING

EL DORADO IRRIGATION DISTRICT

AND THE

EL DORADO IRRIGATION DISTRICT MANAGERS & SUPERVISORS EMPLOYEE ASSOCIATION

> JANUARY 1, 2022 THROUGH DECEMBER 31, 2024

EL DORADO IRRIGATION DISTRICT

AND THE

EL DORADO IRRIGATION DISTRICT MANAGERS AND SUPERVISORS EMPLOYEE ASSOCIATION

January 1, 2022 through December 31, 2024

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 State of California and hereinafter referred to as the ("District"), and the designated representatives of the EL DORADO IRRIGATION DISTRICT MANAGERS AND SUPERVISORS EMPLOYEE ASSOCIATION, 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 of uninterrupted service.

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

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Article 1 Recognition

A. Scope of Agreement

The El Dorado Irrigation District and the El Dorado Irrigation District Managers and Supervisors Employee Association negotiated this Memorandum of Understanding in good faith in compliance with the Meyers-Milias-Brown Act. This Agreement describes wages, hours, terms and conditions of employment for job classifications represented by the Association.

B. Recognition

District Recognition

Acting under the authority of the Board of Directors, the District's General Manager, or any person or organization duly authorized by the General Manager, is the representative of the El Dorado Irrigation District, hereinafter referred to as the "District," in employer-employee relations.

<u>Association Recognition</u>

The El Dorado Irrigation District Managers and Supervisors Employee Association, hereinafter referred to as the "Association," is the exclusive recognized employee organization for all full-time and part-time regular and probationary employees in the Managers and Supervisors Employee Unit. Appendix A to this MOU list the classifications represented by the Association. The Association does not represent any confidential or temporary employees.

Article 2 Employment Status

A. Regular Status Employment

A "regular" employee is a full-time or part-time employee who has successfully completed the District's full hiring process including an initial probationary period.

B. <u>Probationary Employment</u>

1. <u>Purpose of Probation</u>

A "probationary" employee is an employee who has been hired on an at-will basis as the final part of the regular employee hiring process. The purpose of the probationary period is to determine if the employee meets all of the qualifications and requirements for regular employment status. Probation provides the District with the opportunity to: 1) closely observe the employee's work and conduct, 2) provide intensive formal and informal training, and 3) reject any probationary employee whose performance and/or behavior does not, in the District's opinion, meet the standards for regular status.

2. <u>Length of Probation</u>

The probationary period for new District employees in all classifications represented by the Association is twelve (12) months. The probationary period for an employee promoted by the District to a classification within the bargaining unit is six (6) months. Notwithstanding these baseline probationary periods, the District may, with written notice to the employee, extend an employee's probationary period by up to six (6) additional months plus the duration of any absences as provided in subsection B(5) below. There will not be a probationary period for an employee laterally transferred, demoted or reclassified.

3. <u>Dismissal from Probationary Employment</u>

The District may terminate a probationary employee's employment at any time during the probationary period for any lawful reason. An employee may not appeal, grieve or in any way challenge the District's decision to terminate the probationary employment. However, an employee who fails probation on a promotion will be returned to the job classification that the employee held prior to promotion.

4. <u>Accrual of Leaves</u>

New-hire probationary employees do not accrue Paid Time Off ("PTO") or any other form of negotiated paid leave during the probationary period. New-hire probationary employees may use up to 8 hours of PTO leave due to illness each month of probation subject to District policy. The District may require a doctor's note after three (3) days of absence during

probation. If a new-hire probationary employee successfully completes probation and obtains regular status, the District will credit to the employee twelve (12) months' worth of PTO accrual at the lowest accrual tier minus any PTO leave hours used during the probationary period. Promotional probation shall not affect an employee's leave accruals except as otherwise described in this MOU.

5. Effect of Absences from Work

An employee's probationary period will be extended by the aggregate total of any absences from work in excess of forty (40) hours during the probationary period.

Article 3 FLSA Work Period, Overtime and Partial Day Absence

A. FLSA Work Period

All employees will work a standard work week schedule subject to the requirements of the Fair Labor Standards Act (FLSA). The FLSA work period for employees is a consecutive seven day period beginning at 12:00 a.m. each Saturday and ends at 11:59 p.m. the next following Friday.

1. Standard Work Week Schedule

FLSA exempt employees perform a given role, and are paid on a salaried basis. Nonetheless, the District expects that exempt employees work a minimum of a standard full-time work week.

Regular or probationary employees may be designated as part-time employees if they are scheduled to work fewer than 40 hours per week.

B. Overtime

Employees are required to accurately report all time worked on their timesheets. However, all unit FLSA exempt employees are paid on a salary basis and are therefore not eligible to receive additional compensation for overtime worked.

C. Partial Day Absences for Exempt Employees

Except on recognized half-day holidays, exempt employees shall not be required to use PTO or other accrued leave hours for partial day absences. Exempt employees work on a salaried basis and are therefore expected to work as many hours as necessary to complete their duties. However, whole days off are charged to PTO, exempt employee administrative leave, or other approved leave(s), if available.

Article 4 Wages

A. Wage Schedule

The lists of job classifications and corresponding wage rates for represented employees are set forth in Appendix A.

B. Wage Step Plan

- (1) Each wage range consists of (5) five steps, Steps 1 through 5. The wage at each step shall be five percent (5%) higher than the immediately preceding step. Changes made to a wage range will be implemented by adjusting the top step of the wage range. The new wage shall be adjusted to maintain the five percent (5%) difference between steps.
- (2) Step 1 shall normally be paid upon initial employment. In cases where an employee possesses exceptional qualifications or there have been recruitment or retention difficulties for the classification, the General Manager may authorize appointment above Step 1.
- (3) Except for an employee who is already at or "Y" rated above the top step for the employee's classification, an employee shall receive an annual five percent (5%) step increase not to exceed the top step for the classification if the employee 1) receives an overall "Meets Job Standards" or "Exceeds Job Standards" rating on the employee's performance evaluation for the current year and 2) if the employee did not receive a disciplinary unpaid suspension, disciplinary reduction in pay and/or disciplinary demotion during that one-year appraisal period.

(4) Accelerated step increases within the established wage range may be granted by the General Manager in addition to those above.

C. Wage Adjustments

The District shall increase pursuant to subsection B (1) above the base wage for all classifications represented by the Association during the term of this MOU as follows:

The District will increase base wages 6.0% effective during the pay period in which the Board of Directors adopts this MOU. This means that base wages will increase 6.0% effective January 15, 2022 if the Board of Directors adopts this MOU on January 24, 2022.

The District will increase base wages effective the first full pay period in January, 2023 in an amount equal to the Federal Bureau of Labor Statistics CPI-W (All Urban and Clerical Workers) comparing October 2021 and October 2022 figures. If the annual CPI-W comparison is less than 3.0% or more than 5.0% then the 2023 wage increase will equal 3.0% or 5.0%, respectively.

The District will increase base wages effective the first full pay period in January 2024 in an amount equal to the Federal Bureau of Labor Statistics CPI-W (All Urban and Clerical Workers) comparing October 2022 and October 2023 figures. If the annual CPI-W comparison is less than 3.0% or more than 5.0% then the 2024 wage increase will equal 3.0% or 5.0%, respectively.

D. Paychecks

The District shall date and issue paychecks every other Friday. However, when the Friday payday falls on a recognized holiday, the paycheck shall be dated and issued on the immediately preceding business day. The District shall offer (but not require) direct deposits of paychecks. Paychecks shall be issued no later than one week following completion of the pay period.

E. New and Revised Classifications, Titles and Descriptions

The District may establish new classifications, titles and descriptions and revise existing classifications, titles and descriptions within bargaining units represented by the Association due to changes in operations or the requirements of the District, provided the District first meets and confers with the Association on impact to employees as a result of the changes.

F. Equity Wage Increases

The District and the Association recognize that there may be a need for equity wage increases for classifications represented by the Association as a result of recruitment problems, retention problems, reclassifications or organizational changes. It is the District's goal to achieve a 70% match when benchmarking bargaining unit job classifications to positions at the external agencies.

G. Temporary Work

1. Lower Classification

When the District temporarily assigns an employee to work in a classification having a lower pay range, the employee's rate of pay shall not be reduced, unless agreed upon between the District and the Association.

2. <u>Higher Classification</u>

When the District formally assigns an employee to work four (4) or more consecutive days on a temporary basis to perform at least fifty percent (50%) of assigned duties in a classification having a higher pay range, the employee shall receive either Step 1 of the higher pay range or five percent (5%) above the employee's current pay, whichever is greater, but not to exceed the maximum of the range established for the higher classification. The District shall not divide the higher level duties among two or more employees for the sole reason of avoiding compensation for temporary work in a higher classification.

H. <u>Reclassifications</u>

An employee may seek a reclassification pursuant the following process:

- (1) Generally, career advancement and promotional opportunities within the District should be filled by a competitive recruitment process rather than by reclassification. However, the District may evaluate and compare the actual duties and responsibilities of a given job against the duties and responsibilities as described in the classification specification to assure employees remain appropriately classified.
- (2) Reclassifications will normally be considered, reviewed and approved during the annual performance evaluation process. On an exception basis, they may be recommended at other times during the year. If an employee or his or her manager believes the employee's job has changed significantly over time through the assumption of higher-level duties, the manager may recommend reclassification to the next higher level position. A position justification letter or checklist (if applicable) must be submitted with the request to the Department Director and Human Resources.
- (3) Reclassifications are to be based on an evaluation of the level of assigned responsibilities and the duties detailed in the existing and proposed classification specifications. An incumbent who is reclassified must possess the minimum qualification of the classification to which he or she is assigned. When considering upward reclassification, a prime consideration will be the gradual assumption of higher-level responsibilities that may have occurred over time or from organizational or other changes. Also, the preponderance of work time must be spent on the higher level work tasks and responsibilities as detailed in the class specification.
- (4) Considerations not to be taken into account are volume of work or financial need. A reclassification must be approved by the Department Director, Human Resources Director and General Manager. The reclassification will be effective the first day of the pay period following approval.
- (5) A regular employee who is reclassified will receive the wage set forth below:

- (a) If reclassified to a classification with the same wage range, the employee's wage will not change; or
- (b) If reclassified to a classification with a higher wage range, the employee's wage will be increased by exactly five percent (5%) regardless of the wage step, but neither less than the lowest step nor more than the maximum of the range established for the new classification; or
- (c) If reclassified to a classification with a lower wage range, the wage will be determined in the same manner as a voluntary demotion.
- (6) Any applicable pay adjustment that occurs due to a reclassification will not reduce the annual increase available as part of the performance evaluation process.

I. <u>Promotions</u>

- (1) Promotions occur when an existing employee is selected by competitive recruitment process for appointment to a classification having a top step above the top step of the employee's current classification.
- (2) An employee shall be eligible to apply for an available promotional position if: 1) the employee has completed at least one year of active service in the employee's present job, 2) the employee meets the minimum qualifications for the promotional position and 3) the employee did not receive a disciplinary unpaid suspension, disciplinary reduction in pay and/or disciplinary demotion within the year preceding the employee's application for promotion.
- (3) Upon promotion, an employee shall receive a five percent (5%) increase but neither less than the lowest step or the maximum of the wage range established for the new classification. This promotional increase will not reduce the annual step increase available as part of the performance evaluation process.

J. Demotions

- (1) Demotions occur when an existing employee is appointed to a classification having a top step lower than the top step of the employee's current classification.
- (2) An employee who voluntarily demotes to a lower paying classification or who demotes in lieu of layoff under the layoff procedure shall receive the pay step in the lower range nearest but not more than that which was received prior to demotion.
- (3) In all cases of demotion for cause, the General Manager shall set a wage within the pay range of the class to which the employee has been demoted.

K. Transfers

- (1) A lateral transfer is a change between classifications where the wage range for each classification is the same and/or for which the employee was not selected by competitive recruitment process. Generally, career opportunities within the District should be filled by a competitive recruitment process rather than by transfer.
- (2) An employee may request a voluntary transfer. A voluntary transfer must be approved by the Director of Human Resources and the Director(s) of the employee's current and new department(s).
- (3) Upon transfer, an employee shall receive the step in the new range most closely comparable to the employee's current wage without a reduction in pay.

Article 5 Performance Appraisals

One-Time Performance Payment

A one-time performance payment may be granted with the approval of the General Manager to represented employees who "Exceeds Job Standards" and are at or "Y" rated above the top step. Represented employees who receive an overall "Exceeds Jobs Standards" rating on their annual performance appraisal shall receive a \$1,000 one-time performance payment (after taxes).

The General Manager may, at his/her discretion, increase the amount of the one-time performance payment referenced above, up to a total of \$2,500 (after taxes) based on his/her determination of the specific achievement(s) that resulted in the overall exceeds job standards rating.

The criteria for achieving the bonus under this program is more fully described in the Employee Handbook.

Article 6 Medical Benefits

A. Active Employee Health Benefit

1. Employees covered by this MOU shall be eligible to receive the insurance benefits outlined below. The summary plan descriptions and/or formal plan documents for these benefit programs are available from the District and are hereby incorporated by reference into this MOU.

a. Medical Insurance

The District shall contract for medical insurance from CalPERS under the Public Employees' Medical and Hospital Care Act (PEMHCA). The District's contribution for medical insurance premiums shall be the lesser of: i) onehundred percent (100%) of the employee-only monthly premium for the Kaiser Health Maintenance Organization available to District employees in the 95667 Zip Code (Benchmark Plan), or ii) the employee-only monthly premium of the employee's chosen medical insurance plan. If the employee also elects coverage for a spouse/domestic partner or a family, the District shall also contribute as follows the lesser of i) eighty five percent (85%) of the difference between the Benchmark Plan's employee-only monthly premium and its employee plus spouse/domestic partner or employee plus family monthly premium, as applicable, or ii) eighty five percent (85%) of the difference between the employee-only monthly premium and the

employee plus spouse/domestic partner or employee plus family monthly premium, as applicable, of the employee's chosen medical insurance plan. The employee's share of the premium, if any, may be paid each pay period using pre-tax money in accordance with Section 125 of the Internal Revenue Code and associated regulations.

b. Opting Out of Medical Insurance Coverage

Employees who receive medical benefits coverage through another source may opt out of District-provided medical insurance coverage and instead receive a District contribution of \$275 per month, which the employee may elect to either (i) receive all or part in cash subject to applicable withholdings, or (ii) place all or part into a Flexible Spending Arrangement in accordance with Section 125 of the Internal Revenue Code and associated regulations. Employees who opt out must annually provide the District with evidence of health benefits coverage through another source.

c. Vision/Dental/Orthodontia Benefits

The District shall continue to self-insure for vision, dental, and orthodontia benefits. The District shall contribute one-hundred percent (100%) of the employee-only monthly cost for this coverage. If the employee also elects coverage for a spouse/domestic partner or a family, the District shall also contribute eighty five percent (85%) of the difference between the employee-only monthly cost and the employee plus spouse/domestic partner or employee plus family monthly cost, as applicable. The employee's share of the monthly cost, if any, may be paid each pay period using pre-tax money in accordance with Section 125 of the Internal Revenue Code and associated regulations. For purposes of this paragraph, "monthly cost" means the COBRA rates (excluding administration fees) set annually by the carriers for these insurance policies.

B. Retiree Medical Benefit

- 1. To be one-hundred percent (100%) vested to receive the District-paid retiree medical benefits specified in Section B(3) of this Article below, an employee hired before January 1, 2010 must have a minimum of five (5) years of service, as defined by Government Code section 20962, with EID and/or other CalPERS member agencies. Employees hired before January 1, 2010 who do not meet this requirement are not eligible for District-paid retiree medical benefits.
- 2. To begin vesting in the District's retiree medical benefits, an employee hired on or after January 1, 2010 must have a minimum of ten (1 0) years of credited service as defined by Government Code section 20962, of which a minimum of five (5) years must be service with the District. Thereafter, the percentage of vesting gradually increases as more full years of service with the District are credited, according to the following vesting schedule.

Years of Service (Five of which must be with the District)	% of Account Vested
20 years	100%
19 years	95%
18 years	90%
17 years	85%
16 years	80%
15 years	75%
14 years	70%
13 years	65%
12 years	60%
11 years	55%
10 years	50%
Less than 10 years	0%

3. The District shall contract for medical insurance from CalPERS under PEMHCA (contract inception 1993). The District shall contribute to each vested retiree's medical insurance costs, including dependent coverage, according to the following formulas.

- a. If the retiree elects retiree-only coverage, the District shall contribute the lesser of i) one-hundred percent (100%) of the retiree-only monthly premium for the Benchmark Plan, or ii) the retiree-only monthly premium of the retiree's chosen medical insurance plan. However, for employees hired on or after January 1, 2010, this premium contribution percentage shall be multiplied by the applicable value in the "% of Account Vesting" column of the vesting schedule contained in Section B(2) of this Article above.
- b. If the retiree also elects coverage for a spouse/domestic partner or a family, the District shall also contribute the lesser of i) eighty five percent (85%) of the difference between the Benchmark Plan's retiree-only monthly premium and its retiree plus spouse/domestic partner or retiree plus family monthly premium, as applicable, or ii) eighty five percent (85%) of the difference between the retiree-only monthly premium and the retiree plus spouse/domestic partner or retiree plus family monthly premium, as applicable, of the retiree's chosen medical insurance plan. However, for employees hired on or after January 1, 2010, these premium contribution percentages shall be multiplied by the applicable value in the "% of Account Vesting" column of the vesting schedule contained in Section B(2) of this Article above.
- c. Notwithstanding any provision of this section B(3), in no event shall the District's contribution exceed the lesser of the retiree's actual monthly premium cost or the amount required by Government Code section 22892, subdivision (c).

C. <u>Legislative Changes</u>

In the event that the Federal and/or State government pass legislation during the term of this MOU requiring employer-financed health benefits, the District may immediately re-open negotiations on this Article to discuss the impact of the legislation on the current District health benefits for employees and/or retirees.

Article 7 Pension

A. <u>Employees Covered</u>

Employees covered by this MOU shall be eligible to receive the pension benefits outlined below. The District's contract with CalPERS

describing the retirement plan in more detail is available from the District and is hereby incorporated by reference into this MOU.

B. Pension Formulas

The pension benefit is tiered based upon date of hire as follows:

1. <u>Employees Hired Prior to January 1, 2010 – Tier 1, Classic Members:</u>

Employees hired prior to January 1, 2010 are subject to the CalPERS 2.7% at age 55 retirement plan. Employees shall pay, on a pre-tax basis, the lesser of 50% of the total normal cost rate (as defined by California Government Code section 7522.04(g) and calculated by CalPERS in the District's annual valuation report), rounded to the nearest one quarter of one percent, or 8% of reportable compensation. Retirement pension will be calculated based on the employee's highest single year of District compensation.

2. <u>Employees Hired On or After January 1, 2010 – Tier 2,</u> Classic Members:

Employees hired on or after January 1, 2010 are subject to the CalPERS 2.0% at age 55 retirement plan. Employees shall pay, on a pre-tax basis, the lesser of 50% of the total normal cost rate (as defined by California Government Code section 7522.04(g) and calculated by CalPERS in the District's annual valuation report), rounded to the nearest one quarter of one percent, or 8% of reportable compensation. Retirement pension will be calculated based on final compensation as defined by California Government Code Section 20037.

3. Employees Hired On or After January 1, 2013 – Tier 3, New Members:

Employees hired on or after January 1, 2013 are subject to the CalPERS 2.0% at age 62 retirement plan. Employees shall pay, on a pre-tax basis, 50% of the total normal cost rate (as defined by California Government Code section 7522.04(g) and calculated by CalPERS in the District's annual valuation report), rounded to the nearest one quarter of one percent. Retirement pension will be calculated based on final compensation as defined by California Government Code section 20037.

Article 8 Life Insurance

The District will pay for a life insurance benefit for each employee subject to this MOU. The benefit shall be equivalent to employee's annual base wage. Represented employees may purchase additional life insurance for themselves and their family for an additional premium to be paid by the employee via a payroll deduction.

Article 9 Seniority

Seniority is an employee's total length of probationary and regular status employment while in any form of paid status. Except as required by law, an employee stops accruing seniority when the employee is in an unpaid status or when the employee's District employment ends for any reason. An employee may continue to accrue seniority if the District reinstates the employee within one year following a layoff. A reinstated employee shall not accrue seniority during the period of layoff. The District shall post a seniority list at each work location on or about November 1 of each year.

Article 10 Paid Time Off

A. Definition

Paid Time Off (PTO) is paid leave earned by employees that may be used for personal or family illness or vacation subject to the provisions of this Article.

B. Accrual Rates

All regular employees subject to this MOU shall accrue PTO. Employees may only accrue PTO when they are in a regular paid status. Regular employees covered by this Agreement shall accrue PTO each pay period to be credited to the employee's Bank A in relation to their seniority as follows:

District Seniority	Annual Accrual Hours
First 3 Years	176
4 to 9 Years	216
10 to 14 Years	256
15 or More Years	296

Crediting of accrued PTO following successful completion of new hire probation is governed by Article 2(B)(4).

C. Scheduling PTO

The number of hours of PTO deducted from an employee's PTO leave bank for a full-day absence will equal the number of hours that the employee works under the employee's current work schedule.

PTO may be taken in either of two methods, scheduled and non-scheduled, as follows:

1. Scheduled PTO

Scheduled PTO is identical to traditional vacation and anticipated medical leave and may be taken following completion of new employee probationary employment and if the employee has accrued PTO hours in the employee's Bank A sufficient to cover the period of the absence. An employee will apply for scheduled PTO to take a vacation and/or for any planned medical procedure requiring up to two work weeks of leave. All scheduled PTO must be taken from the employee's Bank A, except that an employee may use Bank B PTO for approved absences beginning with the first day following at least two (2) continuous work weeks of absence from the work place due to 1) personal illness, 2) family illness or 3) for any other qualifying leave under FMLA/CFRA.

All scheduled PTO must be taken with prior written approval from the employee's department head or designee. An employee may only take scheduled PTO at times when the District can maintain its desired level of public service without the employee. Approval of non-medical scheduled PTO requests will be based on seniority when multiple employees simultaneously request the same period of absence and the District cannot accommodate all of the requests.

2. Non-Scheduled PTO

All employees may take non-scheduled PTO for personal or family illness or emergency. Employees must provide notice of non-scheduled PTO no later than one hour before the beginning of the employee's scheduled shift or as soon thereafter as the employee is aware of the need for leave.

Non-scheduled PTO will first be deducted from the employee's Bank A. Beginning with the first day following at least two (2) continuous work weeks of absence from the work place due to 1) personal illness, 2) family illness or 3) for any other qualifying leave under FMLA/CFRA, an employee may take non-scheduled PTO using the employee's Bank B.

D. PTO Accrual Maximums

Each employee will have two PTO banks labeled Bank A and Bank B with the following accrual maximums.

1. Bank A

An employee may only carry PTO hours in Bank A from one calendar year to the next calendar year based on the following maximums:

District Seniority	Year-End Bank A Maximum Hours
First 3 Years	160
4 to 9 Years	200
10 to 14 Years	240
15 or More Years	280

An employee may accrue unlimited PTO in Bank A during each calendar year. All PTO hours in Bank A over the employee's maximum described in the chart above will be transferred on or about January 1st of each year to the employee's Bank B.

2. Bank B

An employee may have an unlimited number of PTO in Bank B. However, employees may not voluntarily convert PTO A Bank hours to Bank B hours.

E. <u>PTO Compensation at Separation</u>

PTO in Bank A has the character of and is deemed to be accrued vacation leave time upon separation of employment. An employee will be paid for all PTO hours in the employee's Bank A at the employee's base pay rate at the time of separation. To the extent allowed by law, an employee may on a one-time basis convert up to 2,000 Bank B PTO hours to CalPERS

service credit at the rate of .004 years of service for each day of unused PTO in Bank B. An employee will not be paid for and/or may not donate any PTO hours in the employee's Bank B upon separation and may only convert that time to CalPERS service credit upon service retirement from the District.

F. PTO Donation

An employee may donate PTO from the employee's Bank A to another District employee who has experienced an FMLA qualifying personal or family serious health condition that is not fully covered by the employee's PTO and/or other District leave programs. The recipient employee must have exhausted all paid leave time before the recipient employee may accept donations. Any donated hours that remain in the recipient's bank after the employee's return to work from the qualifying illness or injury will be reimbursed to donating employees' PTO banks on a prorated basis based on the amount of leave each employee donated.

G. Return to Work Medical Certification

The District may require a medical certification for any employee using PTO to verify a personal illness or injury after three (3) or more days of non-scheduled PTO. However, the District may require a medical certification if there is any suspicious use of personal and/or family non-scheduled PTO. The District will decide whether to require a medical certification from the employee's healthcare provider or a healthcare provider selected and compensated by the District.

H. <u>Coordination with Workers' Compensation</u>

An employee may use PTO in Bank A or Bank B to supplement workers' compensation disability benefits. The combined workers' compensation disability benefits and PTO may not exceed the employee's regular rate of pay immediately before the work injury.

I. <u>Coordination with State Disability Insurance</u>

Employees receive State Disability Insurance (SDI) benefits via a payroll deduction which is expressly and irrevocably authorized without individual employee acknowledgements. An employee may use PTO in Bank A or Bank B to supplement SDI benefits. The combined SDI benefits

and PTO may not exceed the employee's base wage immediately before the non-work injury.

J. PTO Bank A Cash Out

Employees who have accrued one hundred and sixty (160) hours of PTO A may sell back hours beyond one hundred and forty (140) up to a maximum of ten (10) hours per calendar year.

Employees who have accrued two hundred (200) hours of PTO A may sell back hours beyond one hundred and sixty (160) up to a maximum of twenty (20) hours per calendar year.

Employees who have accrued two hundred and forty (240) hours of PTO A may sell back hours beyond two hundred (200) up to a maximum of thirty (30) hours per calendar year.

Employees who have accrued two hundred and eighty (280) hours of PTO A may sell back hours beyond two hundred and forty (240) up to a maximum of forty (40) hours per calendar year.

PTO Bank A Cash Out requests must be submitted on approved District forms and must be received by the Human Resources department commencing December 1st but no later than December 15th of each year. Eligible employees may elect to take the PTO A Cash Out in the form of cash, deferred compensation or a combination of the two.

Article 11 Miscellaneous Leaves

A. <u>Leaves Contained in the Employee Handbook</u>

Leaves other than PTO, probationary sick leave, military leave and paid administrative leave are memorialized in the Employee Handbook and those leave provisions are incorporated by reference into this MOU. Represented employees do not accrue FLSA compensatory leave time.

B. Executive Administrative Leave

The purpose of executive administrative leave is to provide leave for represented exempt employees because they do not receive compensation for overtime hours worked. Exempt employees accrue their entire year's

allotment of executive administrative leave hours on January 1 of each year. If an employee becomes eligible for exempt employee administrative leave after January 1, the participant receives a pro-rated number of leave hours, based upon the date the employee becomes eligible. Executive administrative leave must be used within the calendar year in which it is earned. Unused executive administrative leave hours do not carry over from one calendar year to the next. Exempt employees represented by the Association receive eighty (80) hours of executive administrative leave on January 1 of each year.

Article 12 Administrative Leave

The District may place an employee in a paid administrative leave status with written notice to the employee. The written notice may require the employee to be available to be contacted by the District during hours the employee might work and/or to return to work for purposes of an investigation or emergency. The District will give the employee 24 hours' notice that the paid administrative leave is ending and that the employee will return to the employee's regular work schedule.

Article 13 Military Leave

Military Leave shall be granted and compensated in accordance with the provisions of the State of California Military and Veterans Code, Section 394 and 395, and pursuant to the Uniform Services Employment and Reemployment Rights Act (USERRA).

A copy of the official order(s) must be submitted to the District as soon as received by the employee for each leave request.

Article 14 Holidays

A. <u>Recognized Holidays</u>

(1)	January 1	New Year's Day
(2)	Third Monday in January	Martin Luther King Jr.
(3)	Third Monday in February	President's Day
(4)	Last Monday in May	Memorial Day
(5)	July 4	Independence Day
(6)	First Monday in September	Labor Day
(7)	Second Monday in October	Columbus Day

(8) November 11 Veteran's Day Fourth Thursday in November Thanksgiving (9) Day After Thanksgiving (10) Fourth Friday in November (11) Afternoon of December 24 Christmas Eve (12) December 25 Christmas (13) Afternoon of December 31 New Year's Eve (14) Employee Determined Personal Day

B. Holidays Observed

When a recognized holiday falls on a Saturday, the recognized holiday shall be observed the preceding Friday. When a recognized holiday falls on a Sunday, the recognized holiday shall be observed the following Monday.

C. <u>Holiday Compensation</u>

Holiday pay shall be guaranteed and administered as follows:

- (1) Regular part-time employees, who work at least 50% time, shall receive holiday pay on a pro-rata basis from the District.
- (2) The District does not change the salaries of exempt employees during work periods that include paid holidays. Exempt employees are generally not required to work on holidays, except in unusual circumstances.

D. Personal Business Day

The Personal Business Day shall be granted for use on any work day (eight (8) hours) 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 15 Expense Reimbursement

A. Personal Vehicle Use

When the District requires an employee to use the employee's personal vehicle for District business, the District will reimburse the

employee at the IRS mileage rate in effect at the time of the personal vehicle use.

B. Training Expenses

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.

C. Professional Requirements

The District will pay registration, certification, continuing education and licensing fees required for an employee's current job except for a Class C driver's license. This includes but is not limited to, registered engineers, water and wastewater treatment plant operators and supervisors.

Article 16 Gifts and Nepotism

A. 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.

B. Nepotism

1. Definitions

Nepotism is the direct or indirect hiring or supervision of one family member by another family member.

Family members include each employee's husband, wife, domestic partner as defined by Federal and State law, children, dependents, brothers, sisters, grandfathers, grandmothers, aunts, uncles, cousins, nieces and nephews and all "step" and "in-law" relations associated with any of these family relations.

Hiring includes any participation in the hiring process, including but not limited to, review of employment applications and related documents, determination of eligibility for employment, interviewing, testing, reference checking, review of medical testing results and review of probationary performance.

Supervision includes, but is not limited to, performance evaluation, coaching, training, day-to-day direction, promotion, discipline of any kind, employment termination for any reason, approving any type of leave and administering employment pursuant to this MOU, District policy and/or law.

2. Prohibition of Nepotism

The District prohibits nepotism in the hiring and supervision processes at all levels of leadership from first-line supervisors to elected officials. The District will not hire an existing employee's family member if it cannot reasonably ensure that there has not been nepotism in the hiring process and will not be nepotism in the supervision process. The District will transfer or reassign — and if transfer or reassignment is not possible terminate — the least senior employee who has a family member in the employee's chain of command, unless the District and the family members reach a mutually acceptable alternative solution that eliminates the nepotism.

Article 17 Appearance and Uniforms

A. <u>Appearance</u>

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

B. <u>Uniforms</u>

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

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

Article 18 Off-Duty Work

A. Outside Employment Restriction

District employees will not engage in non-District employment of any kind which conflicts with District employment. District employees who engage in non-District employment should, but are not required to, inform the General Manager about their outside employment to determine if their outside employment conflicts with District employment. The General Manager may find that an employee's non-District employment conflicts with the employee's District employment 1) in writing and 2) based on an objective basis including, but not limited to, conflict with District work schedule, conflict between the nature of the employee's District service and the non-District employment. Once the General Manager has approved an employee's specific non-District employment the District may not subsequently withdraw that approval unless required to do so by law.

B. 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.

C. 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.

D. 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 19 Safety Meetings

Regular "tailgate" safety meetings will be held on a bi-weekly basis. Attendance is mandatory for those employees designated to attend, unless excused by the employee's supervisor.

Article 20 Job Postings and Transfers

A. <u>Posting of Vacancies</u>

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 emailed to the Association.

B. <u>Content and Period of Posting</u>

Vacancy notices shall be posted for a period of at least five (5) working days and shall include the date of posting, the location of the job, the job description and the rate of pay.

C. Applying for Vacancies

Employees may apply for vacancies on a District-provided application within the posting period. The District will consider the information provided by the employee on the application as well as any accompanying resume and cover letter. Applicants meeting the minimum qualifications for the job may participate in the next step in the hiring process.

D. 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.

E. <u>Involuntary Transfer</u>

The General Manager may transfer an employee 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 with at least two weeks advance notice to the employee. The General Manager will

review any written Association concern that a transfer may have been requested by a supervisor or manager for purposes of favoritism or to circumvent the competitive promotion process.

F. Job Trade

Two or more employees occupying the same classification may mutually agree to swap work assignments and/or work locations upon approval of the General Manager or his/her designee provided each employee meets the minimum qualifications for the new work assignment.

Article 21 Reductions in Force

A. <u>Layoff Plan</u>

When it becomes necessary for reasons of economy, lack of work, lack of funds, or for operational reasons to reduce the number of employees, the District shall prepare a layoff plan that addresses the particular situation in accordance with the procedures provided for in this Article. The District shall communicate its layoff plan to the affected employees and meet and confer with the Association at least four (4) weeks before implementation to negotiate the impacts of the layoffs.

B. Layoff List

- (1) The District shall prepare a layoff list by classification within each department. The District shall communicate the layoff list as part of its layoff plan to the Association's bargaining representatives and the affected employees at least four (4) weeks before implementation.
- (2) No bargaining unit employee having regular status shall be laid off while employees working as contract, seasonal, temporary, provisional, part-time, retired annuitant, or probationary employees are retained in the same classification series or job family in the same Department as the regular employee to be laid off.
- (3) The order of layoff by classification shall be:

First—contract, seasonal, temporary, part-time, and provisional employees;

Second—retired annuitants;

Third—probationers (excluding promotional probationary);

Fourth—employees under a last-chance agreement and regular-status part-time employees;

Fifth—regular status full-time (including promotional probationary) employees based on Service Points composed of Seniority Points and Performance Points as follows:

Seniority Points (50% weight):

Employees shall be credited with one (1) Service Point for each completed year of seniority as defined in Section 9 of this MOU. Hours an employee is away from work under a District unpaid leave of absence shall not be counted towards seniority points unless required by law. For the purposes of this Section, PTO shall be counted as time served.

Performance Points (50% weight):

Employees shall be credited for Performance Points based on the total points they have scored on their performance evaluations and disciplinary history over the five (5) years preceding the layoff, calculated as follows.

Performance Evaluation or Discipline	Points
Below standards overall annual performance evaluation	0
Meets standards overall annual performance evaluation or no evaluation received	2
Exceeds standards overall annual performance evaluation	4
Written reprimand	-1

Disciplinary unpaid suspension -2

Disciplinary reduction in pay -2

Disciplinary demotion -4

C. Contents of Layoff Notice

The General Manager shall give notice personally or in writing to the last known address to each employee affected by a layoff at least four (4) weeks prior to the effective date of such action. The notice shall include, at a minimum: (i) the reason(s) for the layoff; (ii) classifications or positions to which the employee may transfer or demote, if any; (iii) the effective date of the action; (iv) an explanation of reinstatement rights; and (v) an explanation of the employee's appeal rights.

D. <u>Bumping Rights</u>

The employee with the fewest Service Points occupying the classification designated for layoff shall be the first laid-off from that classification. The bumping rights described below are limited in that an unrepresented employee may not bump a represented employee and a represented employee may not bump an unrepresented employee. An employee receiving a notice of layoff may bump an employee with less Service Points in the following order:

- (1) Displacing the employee with the fewest Service Points occupying the same classification in the employee's Department.
- (2) Displacing the employee with the fewest Service Points occupying a classification within the employee's Department in the same job family or classification series for which the employee is qualified or can become qualified before the effective date of the layoff.
- (3) Demoting or transferring to another classification within the unit in which the employee previously held regular status and for which the employee meets all current minimum

qualifications, thus displacing the employee with the fewest Service Points working in that classification.

E. Reinstatement Rights

- (1) The District shall continuously maintain a reinstatement list. Ranking on the reinstatement list shall be based on seniority.
- (2) Subject to the limitations below, all laid off regular employees shall be automatically placed on the reinstatement list for two (2) years, during which time the employee shall be entitled to reemployment in any vacancy for which he or she is qualified or capable of becoming qualified before the effective date of hire.
- (3) When a vacancy exists and employees are to be recalled, notice of the opening(s) shall be sent by certified mail to the last known address for each employee on the reinstatement list. Employees who fail to respond to the notice of the opening(s) within fourteen (14) calendar days shall forfeit their right to recall for that opening.
- (4) If there are a greater number of employees responding to the notice of opening(s) than there are vacancies, employees shall be selected for reinstatement by competitive recruitment process. Preference shall be given to employees who have previously held regular status in the vacant position, or in a position in the same job family or classification series. Thereafter, preference shall be given to more senior employees.
- (5) Any reinstated employee shall serve an initial probationary period as specified in Article 2 (Probation) if hired into a position for which the employee has not previously attained regular status.
- (6) Reinstated employees shall be subject to a pre-employment medical examination and drug screen.

F. <u>Dispute Resolution</u>

When the Association and the District cannot agree upon whether the District's layoff plan conforms to the criteria found in this Article, the dispute shall be submitted to a mutually agreed upon expert in labor relations appointed to make a recommendation on the matter to the General

Manager. The cost of the labor relations expert shall be shared equally by the Association and the District. If the dispute remains unresolved, it may be submitted under the grievance procedure contained at Article 24 of this Agreement.

G. Classification Series and Job Family

- (1) For the purposes of this Agreement, classification series means a grouping of two or more job classifications performing the same kind of work but with ascending levels of difficulty and complexity.
- (2) For the purposes of this Agreement, job family means an occupational area within a department not limited to a classification series. In a job family, the same or relatively similar work is performed, a similar skill set is required, and it is possible to move within the family with minimal training.

Article 22 District Rights

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 provided, however, the exercise of these rights does not preclude employees and the Association from consulting or raising grievances about practical consequences that decision on these matters may have on wages, hours, and other terms and conditions of employment:

- 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, including but not limited to furloughs and layoffs, because of lack of work, lack of funds, fiscal emergency, 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 and set methods of financing, adoption of budgetary and financial plans that support the sustainability of District operations and the right to operate in a fiscal emergency;
- K. Determine style and/or types of District-issued wearing apparel;
- L. Determine and/or change 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 declare both an emergency or fiscal emergency and operate in such a status, as determined solely by the Board.

Article 23 Association Rights

A. Access

- (1) Association representatives shall be granted access at times that do not interfere with District operations and/or any work in progress to areas, except restricted areas, in which District employees work. Association representatives will provide reasonable notice of visits to the District and comply with District visitor and behavior policies.
- (2) Association representatives and members shall be granted use, without charge, of District buildings and facilities at reasonable times for Association matters. Except for normal wear and tear, the Association shall be responsible for any damage to District property caused by such use.
- (3) The Association shall be granted use, without charge, of reasonable space on any District bulletin boards for Association matters. The Association may provide additional bulletin boards for placement in areas where District-supplied bulletin boards are not available. Placement of Association provided bulletin boards shall be decided by mutual agreement. The District may remove posted notices that are obscene and/or defamatory and shall promptly notify the Association of such removal. The District may remove posted notices of a political nature, unrelated to internal Association elections or business after first consulting with the Association. Only reasonable use of employer equipment, materials or supplies shall be permitted for the preparation, reproduction, or distribution of notices, during regular working time.

- (4) The Association shall be granted use, without charge, of any District interoffice communications systems for transmission of information concerning Association matters. Such use shall not extend to use of the U.S. Mail. Electronic communications must comply with the District's electronic devices policy.
- (5) The Association shall be granted review, at reasonable times, of any public material in the possession of the District.

B. Voluntary Dues Deduction

(1) Bargaining unit employees may sign up for payroll deductions of Association dues, fees, and assessments with the Association. Any voluntary initiation fee, periodic dues, and general assessments of the Association shall be authorized and collected from Association members by payroll deduction and distributed to the Association on a biweekly basis pursuant to California law.

C. Paid Release Time

- (1) As required by Government Code 3505.3, the District will allow a reasonable number of Association employee representatives reasonable time off without loss of compensation or other benefits when they are participating in any one of the following activities:
 - a. Formally meeting and conferring with representatives of the District on matters within the scope of representation including negotiations for a successor MOU, side-letter to an MOU, disciplinary due process and appeal meetings and hearings, and informal and formal grievance resolution meetings;

- b. Testifying or appearing as the designated representative of the Association in conferences, hearings, or other proceedings before the Public Employment Relations Board, or an agent thereof, in matters relating to a charge filed by the Association or its member(s) against the District or by the District against the Association.
- c. Testifying or appearing as the designated representative of the Association in matters before a personnel or merit commission.
- (2) Association employees requesting release time will provide reasonable notification to the District.
- (3) For the purposes of this section, "designated representative" means an officer of the Association or a member serving in proxy of the Association.
- (4) The District and Association agree that a reasonable number of Association members who can participate on paid release time in formal negotiations with District representatives will not exceed five (5). On duty employees are responsible for reporting back to work promptly after the conclusion of any formal meet and confer sessions and approved caucuses.

Article 24 Grievances

A. Definitions

A grievance is an allegation that the District did not comply with a provision of this MOU, the Employee Handbook or a past-practice as defined by Article 29 and violated one or more employee's rights provided by the MOU provision, the Employee Handbook and/or past-practice as defined and limited by Article 29.

A grievant is an employee and/or the Employee Association alleging a grievance.

The grievant may not grieve hiring or promotion decisions, disciplinary actions, performance evaluations, any issue that is not a

negotiable subject concerning employee wages, hours or working conditions or any exercise of District Rights under Article 22.

B. Process

The District and grievant shall seek to resolve any and all grievances at the lowest level possible.

1. Informal Grievance Process

The employee grievant must notify the employee's immediate supervisor within ten (10) work days following when the employee knew or should have known that the District violated the employee's rights under the MOU. The employee must notify the supervisor of the MOU article at issue and the employee's specific injury. The supervisor shall meet with the employee, investigate the alleged grievance, and provide the employee a response within fifteen (15) work days of the employee's notice.

2. Formal Grievance Process

The employee and/or Employee Association grievant may advance the grievance to the formal process if the employee is not able to resolve the grievance using the informal grievance process.

Step 1. Written Grievance

The employee and/or Employee Association grievant must submit the grievance in writing to the District's Human Resources Director within ten (10) work days of receiving the immediate supervisor's response under the informal grievance process. The written grievance must identify:

- 1) The employee or employees harmed by the alleged violation(s),
- 2) The MOU article, handbook section and/or past-practice allegedly violated,
- 3) The action which allegedly violated the specified MOU article, handbook section and/or past-practice,
- 4) The specific injury to one or more employees caused by the alleged violation,
- 5) The date of the alleged injury,
- 6) The remedy sought by the grievant,
- 7) The identity of the Employee Association's representative if any,

- 8) The date of submittal to the Human Resources Director, and
- 9) The grievant's signature.

The Human Resources Director will conduct whatever review of the grievance the Director deems necessary to respond to the grievance. This includes but is not limited to, one or more meetings with the grievant, one or more meetings with District employees and review of bargaining history. The grievant may submit information, evidence, statements from other employees and written comment to the Human Resources Director which will be reviewed as part of the Step 1 process.

The Human Resources Director may offer proposed solutions to the grievance to the Employee Association during the review process. The Human Resources Director will provide a formal written response to the grievant within fifteen (15) work days of receiving the written grievance unless the parties have already resolved the grievance or the Human Resources Director needs additional time to review the grievance.

Step 2. Mediation

If the grievance is not resolved at Step 1, the Employee Association must submit to the Human Resources Director a written request for mediation within ten (10) work days of receiving the Human Resources Director's formal written response to the grievance. The District will thereafter secure the services of a professional mediator from the State of California Mediation and Conciliation Service ("CMCS") or other agreed-upon source. The mediator, grievant and Human Resources Director shall schedule a mutually satisfactory time to meet at the District's headquarters to mediate the grievance. The parties shall mediate the grievance in good faith, including but not limited to submitting relevant information to the mediator and other party, discussing the grievance in a professional manner during the mediation and seeking the plain meaning of the MOU article at issue.

Step 3. Administrative Law Judge Hearing

If the grievance is not resolved at Step 2, the Employee Association must submit to the Human Resources Director a written request for an evidentiary hearing within ten (10) work days of the mediation. The District will thereafter secure the services of an Administrative Law Judge (ALJ)

from the California Office of Administrative Hearings (OAH) who will conduct an evidentiary hearing under the California Administrative Procedures Act (APA). The parties shall conduct the evidentiary hearing in good faith. The appeal hearing is informal and is not subject to the technical rules of evidence. The parties may stipulate to facts, the admission of exhibits and other matters to speed the hearing process. At the conclusion of the evidentiary hearing, the ALJ shall prepare an advisory ruling and submit it to the District's General Manager. The parties will each pay half of the ALJ's fee.

Step 4. General Manager Review

The General Manager or the General Manager's designee will receive and review the ALJ's advisory ruling and a copy of the record developed during the evidentiary hearing process and will conduct whatever review of the grievance the General Manager or designee deems necessary to make a final determination. This includes but is not limited to, one or more meetings with the grievant, one or more meetings with other District employees and review of bargaining history.

The General Manager or designee may offer proposed solutions to the grievance during the review process. The General Manager or designee will provide a formal written response to the grievant within fifteen (15) work days of receiving the written request for a final determination unless the parties have already resolved the grievance or the General Manager or designee needs additional time to make a final determination.

C. <u>Grievant's Rights</u>

A grievant may obtain assistance from a representative of the grievant's choice with the filing and presentation of a grievance at any stage of this procedure.

No grievant shall be subject to restraint, coercion or reprisal as a result of filing a grievance under this procedure or participating in the grievance process.

A grievant may request that the District extend a deadline under this Article. The District's agreement to extend any deadline must be in writing.

D. <u>District Grievance Rights</u>

The District may obtain assistance from a representative of the District's choice with the review and response to a grievance at any stage of this procedure.

The District is not required to review and/or respond to a grievance that is untimely at any stage of the Informal Grievance Process and/or Formal Grievance Process.

The District may request to extend its deadline to act under this Article as necessary to seek to resolve, review or respond to the grievance. The Employee Association's agreement to extend any deadline must be in writing.

Article 25 Discipline

A. <u>Grounds for Discipline</u>

The District has the right to discipline any employee for any of the following grounds:

- (1) Dishonesty.
- (2) Insubordination.
- (3) Misuse and/or theft of District property.
- (4) Being under the influence of drugs and/or alcohol at work.
- (5) Incompetence.
- (6) Misuse and/or excessive use of PTO and/or any other leave.
- (7) Harassment, discrimination and/or retaliation.
- (8) Failure to perform work as required.
- (9) Unsafe actions.
- (10) Violence and/or threats of violence.
- (11) Unlawful actions.
- (12) Violation of any provision of the Employee Handbook and/or any other District MOU, policy, procedure and/or rule.
- (13) Outside employment that conflicts with District employment.
- (14) Unethical actions.
- (15) Strikes, work stoppages and/or work slowdowns.
- (16) Refusal to work a scheduled shift and/or overtime.
- (17) Encouraging and/or ordering another employee to engage in misconduct.

- (18) Conducting outside employment during District work hours.
- (19) Horseplay during work hours and/or on District property.
- (20) Fraud.
- (21) Submission of a false and/or inaccurate timecard.
- (22) Failure to timely provide notice of leave.
- (23) Any other action which harms the District, a customer, a District contractor and/or another District employee.

B. <u>Disciplinary Penalties</u>

The District may impose discipline on a progressive basis for any disciplinary ground. Progressive discipline means that the penalty for misconduct will usually begin with a lower-level penalty and progress to higher-level penalties for subsequent violations. However, the District may impose any penalty up to and including employment termination within its lawful discretion for any disciplinary ground.

The District may impose the following disciplinary penalties:

- (1) Verbal reprimand.
- (2) Written reprimand.
- (3) Unpaid Suspension.
- (4) Reduction in pay and/or wage step.
- (5) Demotion with or without eligibility to promote in the future.
- (6) Termination without right of rehire to the District.

The District may impose any other penalty and/or corrective action within its lawful discretion in addition to or instead of those included in the list of progressive penalties. Disciplinary actions are documented and placed in employee personnel files. The District will not characterize a disciplinary document as both a reprimand and a monetary disciplinary action.

C. <u>Disciplinary Appeals</u>

1. Appeals for Lesser Disciplinary Actions

An employee receiving a written reprimand, reduction in pay equal to or less than three work days pay, suspension without pay equal to or less than three work days and/or any other non-monetary written disciplinary penalty may, within ten (10) working days, appeal the disciplinary action to the employee's department head or the department head's designee. The

appeal shall constitute an opportunity to be heard by the department head or designee and receive from the department head or designee of a written ruling on the appeal within thirty (30) work days, unless the response deadline is extended by mutual agreement. An employee may submit a written response to the notice of discipline instead and/or in addition to having an in-person appeal meeting.

2. Appeals for Major Disciplinary Actions

An employee receiving a disciplinary penalty that includes a reduction in pay of more than three work days pay, suspension without pay of more than three work days, demotion and/or termination will receive the following due process.

a. <u>Pre-Disciplinary Due Process</u>

Step 1: Notice of Intent to Discipline

The District will provide a written notice of intent to discipline to the employee which shall include: 1) description of the proposed disciplinary penalty, 2) identification of the grounds for discipline, 3) description of the employee's misconduct, 4) identification of the evidence upon which the proposed discipline is based, and 5) description of the employee's predisciplinary Skelly meeting rights, including the date of the Skelly meeting, which shall be scheduled no earlier than ten (10) work days following the date on which the disciplinary notice is received by the employee, unless an earlier date is mutually agreed upon.

Step 2: Pre-Disciplinary Presentation

The Skelly meeting shall be heard by the employee's department head or the department head's designee unless the department head investigated the alleged misconduct, is a witness to the misconduct and/or is a victim of the misconduct. If the department head is disqualified from hearing the employee's pre-disciplinary appeal, the Skelly meeting shall be heard by the General Manager's designee. A Skelly meeting hearing officer designated by a department head or the General Manager may be another District employee or a non-District employee.

The Skelly meeting is not an evidentiary appeal hearing and shall be afforded to the employee to the extent required by law. The Skelly meeting

may be audio recorded by the District and/or employee. An employee may submit a written response to the notice of intent to discipline instead and/or in addition to having a Skelly meeting.

b. <u>Post-Disciplinary Due Process for Major Unpaid</u> <u>Suspensions, Major Disciplinary Reductions in</u> Pay and Disciplinary Demotions

Step 1: Notice of Discipline

After completion of pre-disciplinary due process, if the District decides to impose discipline on the employee, the District will provide a written notice of discipline to the employee which shall include: 1) description of the disciplinary penalty, 2) identification of the grounds for discipline, 3) description of the employee's misconduct, 4) identification of the evidence upon which the proposed discipline is based, and 5) description of the employee's post-disciplinary appeal right.

Step 2: Employee Appeal

Within ten (10) work days of service of the notice of discipline the employee may request a post-disciplinary appeal hearing by submitting a written appeal to the General Manager.

Step 3: Appeal Hearing

Following receipt of the employee's written appeal, the District shall contract the California Office of Administrative Hearings to schedule the employee's post-disciplinary appeal hearing with an Administrative Law Judge.

The issues to be addressed by the Administrative Law Judge are 1) does a preponderance of evidence prove the grounds for discipline and 2) does the penalty imposed constitute an abuse of discretion by management.

The appeal hearing is informal and is not subject to the technical rules of evidence. The District and the employee may have a representative of their choice, may present witnesses, cross-examine witnesses and submit written and/or other physical evidence. The District has the burden of proving the grounds for discipline and the employee has the burden of

proving any affirmative defenses. The District has the right to present a rebuttal case. The appeal hearing shall be memorialized by a certified court reporter.

Following the presentation of evidence, each party may submit a verbal or written closing argument. Closing arguments should include proposed findings of fact and argument concerning the two issues to be addressed by the Administrative Law Judge. Written closing arguments shall be received by the Administrative Law Judge based on a schedule that is discussed with the parties. The District has the right to submit a rebuttal closing argument.

After the hearing and post-hearing argument process is complete, the Administrative Law Judge shall submit to the District's Board: 1) findings of fact, 2) a recommendation as to whether the preponderance of the evidence proves the grounds for discipline and 3) a recommendation as to whether the penalty imposed constitutes an abuse of discretion by management. The General Manger shall simultaneously forward copies of the Administrative Law Judge's submittal to the employee and District official who prosecuted the disciplinary action.

The District shall pay one hundred percent (100%) of the Administrative Law Judge's fee and the parties will each pay fifty percent (50%) of the certified court reporter's fee. Each party may request a copy of the transcript of the appeal hearing at its own cost.

Step 4: District Board Ruling

The District's Governing Board shall meet in closed session to review the submittal from the Administrative Law Judge, the parties' closing arguments to the Administrative Law Judge, any written, and/or to the extent allowed by the Brown Act, verbal argument from the employee and/or management commenting on the Administrative Law Judge's submittal, and the evidentiary record of the appeal. The Governing Board shall issue a final written administrative decision which shall include: 1) findings of fact, 2) a determination as to whether the preponderance of the evidence proves the grounds for discipline and 3) a description of the penalty, if any, imposed by the Board.

The Governing Board may have legal counsel independent of the District's representative at the administrative appeal to assist the Governing Board with preparation of the final ruling.

The Governing Board's final written administrative decision is subject to timely superior court administrative mandamus review.

c. <u>Post-Disciplinary Due Process for Employment</u> Terminations

Step 1: Notice of Discipline

After completion of pre-disciplinary due process, if the District decides to impose termination on the employee, the District will provide a written notice of discipline to the employee which shall include: 1) description of the disciplinary penalty, 2) identification of the grounds for discipline, 3) description of the employee's misconduct, 4) identification of the evidence upon which the proposed discipline is based, and 5) description of the employee's post-disciplinary appeal right.

Step 2: Employee Appeal

Within ten (10) work days of service of the notice of discipline the employee may request a post-disciplinary appeal hearing by submitting a written appeal to the General Manager. The employee may request arbitration, or an ALJ advisory hearing with a final decision by the District's Governing Board as described in steps 3 and 4 of subsection C(2)(b) above.

Step 3: Appeal Hearing

Following receipt of the employee's written appeal requesting arbitration, the District shall request a list of seven arbitrators from the California State Mediation and Conciliation Service (CSMCS). The parties may select an arbitrator from a list from CSMCS or stipulate to an arbitrator. The District and Association shall each pay fifty percent (50%) of both the Arbitrator's fee and the certified court reporter's fee.

The issue to be addressed by the Arbitrator is whether there is just cause for the discipline imposed on the employee and, if not, what remedy if any is appropriate.

The arbitration hearing is informal and is not subject to the technical rules of evidence. The District and the employee may have a representative of their choice, may present witnesses, cross-examine witnesses and submit written and/or other physical evidence. The District has the burden of proving the grounds for discipline and the employee has the burden of proving any affirmative defenses. The District has the right to present a rebuttal case. The appeal hearing shall be memorialized by a certified court reporter.

Following the presentation of evidence, each party may submit a verbal or written closing argument. Closing arguments should include argument concerning the two issues to be addressed by the arbitrator. Written closing arguments shall be received by the arbitrator based on a schedule that is discussed with the parties. The District has the right to submit a rebuttal closing argument. The arbitrator's ruling shall be final.

Article 26 Contracting Out

Should the District decide to contract-out a current service which results in the layoff of one or more employees, it will notify the Association in advance of implementation of the layoff(s) and, if requested within five (5) days, meet and confer over the impacts of the layoff(s). The parties shall meet and confer as needed until reaching agreement on impacts during the four-week layoff notice period. Either party may declare impasse during or at the end of the four-week layoff notice period and the impasse procedure will then be invoked. Nothing in this Agreement shall prevent the District from implementing its decision to contract-out on schedule, implementing the lay-off(s) on schedule or assigning the subject employee(s) at their current pay rates to other work while the impacts meet and confer process is underway.

Article 27 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 because any such actions may threaten the public health.

Article 28 Labor Management Communication

Management representatives from the District's departments will meet approximately once per month during regular work hours with a proportional number of employees subject to this MOU and other exclusive representative units, including representatives of the Association's Executive Board, to discuss any matter relevant to labor-management relations. The Association shall select its member participants. Unrepresented employees may also participate in LMC meetings. Meeting locations will rotate to various District work sites. Subjects that may be discussed include but are not limited to, District finances, employment policies and practices, training, safety, security, public relations or service-level issues. The purpose of these meetings is to provide an open communication forum for employees and managers. These meetings are not meet and confer labor negotiation meetings. All participants shall conduct themselves in a professional manner. Employees shall attend meetings on paid time.

Article 29 Full Understanding, Modification and Waiver

A. <u>Full Understanding</u>

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.

B. <u>No Interim Bargaining</u>

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 as a result of 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 during the term of this Agreement unless either party requests bargaining due to: 1) a change in law and/or legal judgment directly altering a provision

of this Agreement or 2) a State mandate requiring a transfer of District funds to the State enacted into law following January 1, 2022.

C. 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.

D. 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.

E. Superseding Effect of Agreement

This Memorandum of Understanding takes precedence over any conflicting District policy, past practice, and or rule. The definition of a past practice is one that is unequivocal; clearly enunciated and acted upon; and readily ascertainable over a reasonable period of time as a fixed and established practice.

Article 30 Severability 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 31 Duration of Agreement

This Memorandum of Understanding between the District and the Association shall become effective following ratification by the Board of

Directors and the Association membership and shall continue in full force and effect until midnight, December 31, 2024, at which time it shall expire in its entirety. Except as otherwise provided in this MOU, either party may give written notice to the other party ninety (90) days prior to the expiration of this MOU requiring commencement of negotiations on a successor MOU. The parties shall begin meeting and conferring as soon as reasonably possible after such notice has been given.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding effective January 1, 2022, through December 31, 2024.

Association of El Dorado	
Irrigation District Employees	El Dorado Irrigation District
By: Habel Dawson Elizabeth Dawson	By: Jim Abercrombie
Its: President	Its: General Manager
By: Jennifer Downey	By: Brian D. Poulsen
Its: Vice President	Its: General Counsel
By: Michael Brink	By: Elizabeth Leeper
Its: Secretary	Its: Sr. Deputy General Counsel
By: Anthony Pasquarello	By: Daniel Corcoran
Its: Executive Board Member	Its: Director of Operations
By: Mathew Heape	By: Mark Price
Its: Executive Board Member	Its: Director of Finance
	By: Jose C. Perez Its: Director of Human Resources
	its. Director of Human resources
Approved as to form:	Approved as to form:
Goyette & Associates	Liebert Cassidy Whitmore
By Mullingham Kim Gillingham	By: Jack W. Hughes
Chief Negotiator for Association	Chief Negotiator/Attorney for the District
	y