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7 Attorneys for Respondents COUNTY OF ORANGE; BOARD OF  
SUPERVISORS OF THE COUNTY OF ORANGE  
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF ORANGE

11 ORANGE COUNTY ATTORNEYS  
ASSOCIATION,

12 Petitioner,

13 v.

14 COUNTY OF ORANGE; BOARD OF  
15 SUPERVISORS OF THE COUNTY OF  
ORANGE,

16 Respondents.  
17

Case No.: 30-2013-00638110-CU-WM-CJC

Complaint Filed: March 15, 2013

**DECLARATION OF MITCH TEVLIN IN  
SUPPORT OF RESPONDENTS' OPPOSITION  
TO THE PETITION FOR WRIT OF  
MANDATE**

Date: February 14, 2014

Time: 1:30 p.m.

Dept: C25

(\*Exempt from filing fees pursuant to Gov.  
Code, § 6103.)

18  
19  
20  
21 I, Mitch Tevlin, declare as follows:

- 22 1. I am an Administrative Manager III and Budget Manager for the County of Orange,  
23 California ("County") and have served in this capacity since January 2007. I have  
24 personal knowledge of the facts set forth herein, except as to those facts I am informed  
25 and believe and I believe them to be true. If called as a witness, I would and could  
26 competently testify to the facts set forth herein.
- 27 2. As Administrative Manager III and Budget Manager for the County my duties include  
28 Coordination of the Annual Budget Proicess, System Adminstrator for the County-wide

- 1 Budget Application, County's liaison with the Orange County Employees Retirement  
2 System ("OCERS") and providing financial analysis related to labor negotiations.
- 3 3. In my role as Budget Manager, I analyze and prepare calculations regarding the cost to the  
4 County in providing retirement benefits to the County's employees.
- 5 4. Employees represented by the Orange County Attorneys Association ("OCAA") are  
6 members of the County's pension system, OCERS.
- 7 5. Employees have a retirement benefit formula which is used to calculate the employee's  
8 basic pension benefit once he or she retires. The benefit formula is expressed as a  
9 maximum percentage of final compensation at a specified age of retirement. For example,  
10 "2.7% at 55" means that the employee will receive a maximum retirement benefit of 2.7%  
11 of final compensation at a retirement age of 55 years or older taking into account the  
12 number of years of service credit the employee has when he or she retires.
- 13 6. When employees enter County employment, they are assigned the retirement benefit  
14 formula applicable to the group or class of employees to which they belong. OCAA are a  
15 class of employees who share the same retirement benefit formulas.
- 16 7. The pension benefits of employees are funded, in part, by mandatory employer  
17 contributions and member contributions. The contribution amount is expressed as a  
18 percentage of compensation. The County's contribution rate is a percentage of total  
19 compensation earnable for all members of a particular group and the member contribution  
20 rate is a percentage of the member's own compensation earnable. The member  
21 contribution rate will vary by member depending on the age at which the member first  
22 entered OCERS. The employer and employee contribution rates are established by  
23 OCERS each year after an actuarial analysis of the pension system's funding. The rates  
24 are then approved by the County Board of Supervisors. Attached hereto as **Exhibit A** are  
25 the member contribution rates for OCAA employees for 2013-2014. OCAA employees  
26 are in the "Plan J" retirement rate group.
- 27 8. In the 2004-2007 memorandum of understanding between the County and OCAA, the  
28 parties agreed to implement a new enhanced retirement formula of 2.7% at 55 for OCAA

- 1 employees (“New Formula”) effective July 1, 2005. This New Formula provides a higher  
2 retirement benefit for OCAA employees than the retirement formulas they previously had,  
3 2.6% at age 62 (for employees hired on or before September 20, 1979) and 2.9% at 65 (for  
4 employees hired on or after September 21, 1979) (“Old Formulas”). Attached hereto as  
5 **Exhibit B** is a true and correct copy of Article XXII to the parties’ 2004-2007 MOU  
6 reflecting the agreement to implement the New Formula.
- 7 9. Attached hereto as **Exhibit C** is a true and correct copy of Article XXII to the parties’  
8 2007-2011 MOU.
- 9 10. Attached hereto as **Exhibit D** is a true and correct copy of the Agenda Staff Report  
10 recommending approval of the 2004-2007 OCAA MOU and implementation of the New  
11 Formula.
- 12 11. The New Formula results in the following additional costs: (1) a higher normal employee  
13 member contribution; (2) a higher normal employer contribution; and (3) an underfunded  
14 “past service liability” contribution because the New Formula applies retroactively to  
15 service previously performed by employees prior to the implementation of the New  
16 Formula.
- 17 12. The 2004-2007 and 2007-2011 MOUs require OCAA employees to pay a “Reverse Pick-  
18 Up” contribution equal to: (1) the difference between the County’s employer contribution  
19 to fund the Old Formulas and the employer contribution to fund the New Formula; and (2)  
20 the cost to the County to pay for the “past service liability.” (*See* Article XXII Section  
21 1.F. to Exhibits B and C attached hereto.)
- 22 13. Prior to the 2004-2007 MOU and the implementation of the New Formula, the County  
23 was picking-up the full amount of employee member contributions to fund their Old  
24 Formulas. In the 2004-2007 MOU, the County agreed to continue the pick-up of a portion  
25 of the employee member contribution rate equal to what the employee contribution would  
26 be under the Old Formulas. The County also picked-up the employee contribution needed  
27 for full reserve funding of the cost-of-living adjustments for retirees (“COLA”). These  
28 are collectively referred to as the “County Pick-Up.” If the County does not pick-up these

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1 items, they become the responsibility of the employee to pay. (See Article XXII Section  
2 1.G. to Exhibit B attached hereto.)

3 14. When the 2004-2007 MOU was entered into, the amount of the Reverse Pick-Up was  
4 .54% of compensation earnable. However, each year the Reverse Pick-Up amount is  
5 recalculated and adjusted to ensure that the amount accurately reflects the contribution  
6 employees agreed to pick-up. (See Article XXII Section 1.F.4. to Exhibits B and C  
7 attached hereto.)

8 15. Each year since 2006, I perform the calculations necessary to determine the amount of the  
9 Reverse Pick-Up.

10 16. Since May 2007, OCAA and the County agreed that the methodology for determining the  
11 Reverse Pick-Up would be the "relative ratio methodology." Under this methodology, I  
12 add together the County's normal employer contribution rate and the County's unfunded  
13 actuarial accrued liabilities rate ("UAAL") provided to me by OCERS. I take that sum  
14 and multiply it by 25.5%. From this number, I subtract 3.84% which is an actuarial  
15 estimate of the health cost savings to the County that was part of an agreement with  
16 OCAA in 2004. This final number is the Reverse Pick-Up rate. Currently, the Reverse  
17 Pick-Up rate is 4.578%.

18 17. When the County terminated the County Pick-Up on March 5, 2013, this did not result in  
19 any change to the actual amount of the Reverse Pick-Up. The Reverse Pick-Up amount  
20 continues to be calculated according to the relative ratio methodology and the termination  
21 of the County Pick-Up does not impact the calculation for the Reverse Pick-Up.

22  
23 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
24 knowledge and is executed by me on January 31, 2014 at Santa Ana, California.

25  
26  
27 By: 

28 Mitch Tevlin

# **EXHIBIT A**

**County of Orange Employer/Employee Rates – General Members**  
Effective pay period 16, June 28, 2013

**EMPLOYER CONTRIBUTION RATES – Rate Groups 1 & 2**

2.0% @ 57 PLAN (AFSCME)	ER RATE	2.7% @ 56 PLAN	ER RATE	1.62% @ 65 PLAN	ER RATE	1.62% @ 66 PEPRA PLAN	ER RATE	2.5% @ 67 PEPRA PLAN	ER RATE	2.5% @ 67 PEPRA PLAN (AFSCME)	ER RATE
A & B - Normal	8.55%	I & J - Normal	12.03%	P - Normal	4.91%	T - Normal	6.20%	U - Normal	8.26%	U - Normal	8.06%
<u>UAAL</u>	<u>10.39%</u>	<u>UAAL</u>	<u>20.98%</u>	<u>UAAL</u>	<u>20.98%</u>	<u>UAAL</u>	<u>20.98%</u>	<u>UAAL</u>	<u>20.98%</u>	<u>UAAL</u>	<u>10.39%</u>
<b>Total</b>	<b>18.94%</b>	<b>Total</b>	<b>33.01%</b>	<b>Total</b>	<b>25.89%</b>	<b>Total</b>	<b>27.18%</b>	<b>Total</b>	<b>24.48%</b>	<b>Total</b>	<b>18.45%</b>

**EMPLOYEE GENERAL MEMBER CONTRIBUTION RATES – Rate Groups 1 & 2**

Entry Age	Plan A (2.0% @ 57) (AFSCME - RG1)	PLAN B (1.67% @ 57)	PLAN I (2.7% @ 55)	PLAN J (2.7% @ 55)	PLAN P (1.62% @ 65)	PLAN T - PEPRA (1.62% @ 66)	PLAN U - PEPRA (2.5% @ 67)	PLAN U - PEPRA (2.8% @ 67) (AFSCME - RG1)
15	4.40%	5.97%	8.84%	8.44%	5.52%	4.00%	6.00%	6.00%
16	4.40%	5.97%	8.84%	8.44%	5.52%	4.00%	6.00%	6.00%
17	4.47%	6.06%	8.99%	8.59%	5.62%	4.00%	5.75%	5.75%
18	4.55%	6.16%	9.15%	8.74%	5.72%	4.00%	5.50%	5.50%
19	4.63%	6.29%	9.31%	8.89%	5.82%	4.25%	5.50%	5.50%
20	4.71%	6.40%	9.47%	9.04%	5.92%	4.25%	5.75%	5.50%
21	4.80%	6.51%	9.63%	9.20%	6.02%	4.25%	5.75%	5.75%
22	4.88%	6.63%	9.80%	9.36%	6.13%	4.50%	5.75%	5.75%
23	4.96%	6.74%	9.97%	9.52%	6.23%	4.50%	6.00%	6.00%
24	5.05%	6.86%	10.14%	9.69%	6.34%	4.50%	6.00%	6.00%
25	5.14%	6.98%	10.31%	9.85%	6.45%	4.75%	6.25%	6.25%
26	5.23%	7.10%	10.49%	10.02%	6.56%	4.75%	6.25%	6.25%
27	5.32%	7.22%	10.67%	10.20%	6.68%	5.00%	6.50%	6.50%
28	5.41%	7.36%	10.86%	10.37%	6.79%	5.00%	6.50%	6.50%
29	5.50%	7.47%	11.05%	10.55%	6.91%	5.00%	6.75%	6.75%
30	5.60%	7.60%	11.24%	10.74%	7.03%	5.25%	6.75%	6.75%
31	5.69%	7.73%	11.43%	10.92%	7.15%	5.25%	7.00%	7.00%
32	5.79%	7.87%	11.64%	11.12%	7.27%	5.25%	7.00%	7.00%
33	5.89%	8.00%	11.84%	11.31%	7.40%	5.50%	7.25%	7.25%
34	5.99%	8.14%	12.05%	11.51%	7.53%	5.50%	7.25%	7.25%
35	6.10%	8.28%	12.27%	11.72%	7.66%	5.75%	7.50%	7.50%
36	6.20%	8.43%	12.49%	11.93%	7.79%	5.75%	7.50%	7.50%
37	6.31%	8.58%	12.72%	12.14%	7.93%	6.00%	7.75%	7.75%
38	6.43%	8.73%	12.96%	12.36%	8.07%	6.00%	8.00%	8.00%
39	6.54%	8.88%	13.17%	12.56%	8.21%	6.00%	8.00%	8.00%
40	6.66%	9.04%	13.40%	12.77%	8.36%	6.25%	8.25%	8.25%
41	6.78%	9.21%	13.63%	12.99%	8.51%	6.25%	8.25%	8.25%
42	6.90%	9.37%	13.87%	13.22%	8.66%	6.50%	8.50%	8.50%
43	7.03%	9.53%	14.13%	13.47%	8.81%	6.50%	8.75%	8.75%
44	7.15%	9.69%	14.40%	13.72%	8.96%	6.75%	8.75%	8.75%

\*For EE rates above age 60, please contact OCERS or your employers HR/Payroll department

Entry Age	Plan A (2.0% @ 57) (AFSME - RG1)	PLAN B (1.67% @ 67)	PLAN I (2.7% @ 55)	PLAN J (2.7% @ 55)	PLAN P (1.62% @ 65)	PLAN T - PEPRA (1.62% @ 65)	PLAN U - PEPRA (2.5% @ 67)	PLAN U - PEPRA (2.5% @ 67) (AFSME - RG1)
45	7.27%	9.85%	14.70%	13.97%	9.11%	6.75%	9.00%	9.00%
46	7.40%	10.02%	14.99%	14.21%	9.27%	7.00%	9.25%	9.25%
47	7.53%	10.20%	15.27%	14.41%	9.43%	7.00%	9.50%	9.25%
48	7.67%	10.39%	15.56%	14.56%	9.61%	7.25%	9.50%	9.50%
49	7.82%	10.58%	15.76%	14.61%	9.79%	7.25%	9.75%	9.75%
50	7.98%	10.78%	15.87%	14.59%	9.96%	7.50%	10.00%	10.00%
51	8.13%	10.96%	15.88%	14.47%	10.14%	7.75%	10.00%	10.00%
52	8.29%	11.12%	15.81%	14.21%	10.28%	7.75%	10.25%	10.25%
53	8.45%	11.23%	15.67%	14.72%	10.39%	7.75%	10.50%	10.50%
54	8.55%	11.28%	15.25%	15.25%	10.43%	8.00%	10.75%	10.75%
55	8.61%	11.25%	15.25%	15.25%	10.41%	8.00%	11.00%	10.75%
56	8.62%	11.17%	15.25%	15.25%	10.33%	7.75%	11.00%	11.00%
57	8.58%	10.96%	15.25%	15.25%	10.14%	7.75%	11.25%	11.25%
58	8.50%	11.36%	15.25%	15.25%	10.50%	8.00%	11.50%	11.50%
59	8.28%	11.77%	15.25%	15.25%	10.88%	8.25%	11.75%	11.75%
60*	8.28%	11.77%	15.25%	15.25%	10.88%	8.25%	11.75%	11.75%

Average entry age and discount percentages applicable to employee contributions paid under Section 31581.1 are:

Plan	Discount Percentage	Average Entry Age
Plan A (General)	97.87%	33
Plan B (General)	93.53%	33
Plan I (General)	97.29%	33
Plan J (General)	94.44%	33
Plan O (General)	N/A	N/A
Plan P (General)	92.26%	33
Plan T - PEPRA (General)	91.92%	35
Plan U - PEPRA (General)	91.66%	32
Plan U - PEPRA (AFSMEI)	91.01%	33

**Reverse Pickups:**

Certain County Bargaining Units under the 2.7% at 55 and 1.62% at 65 plans are subject to an Employee paid Reverse Pickup. [Click here](#) to view a list of reverse pickup rates.

\*For EE rates above age 60, please contact OCERS or your employers HR/Payroll department

# **EXHIBIT B**



MEMORANDUM OF UNDERSTANDING

2004 - 2007

COUNTY OF ORANGE

AND

THE ORANGE COUNTY ATTORNEYS ASSOCIATION

FOR THE

ATTORNEY UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Orange County Attorneys Association as the Exclusively Recognized Employee Organization for the Attorney Unit for the period beginning June 25, 2004 through June 21, 2007. Unless otherwise indicated herein, all provisions shall become effective June 25, 2004.

ARTICLE XXII RETIREMENT

Section 1. Contribution Rates and Benefit Levels

A. For employees hired on or before September 20, 1979:

1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Section 31676.12 of the Government Code for general members.
2. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
3. Members' normal contribution rates shall continue to be established as provided by Section 31621.5 of the Government Code for general members.
4. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
5. From June 25, 2004 through June 23, 2005, as provided by Government Code Section 31581.1, the County will pay toward the employee's total retirement contribution as determined by A.3. and 4., above, the statutory maximum allowable of up to one-half (1/2) to a maximum of five (5) percent.

B. For employees hired on or after September 21, 1979:

1. General members will be provided a one-sixtieth (1/60) retirement benefit allowance as provided in Section 31676.1 of the Government Code.
2. The retirement allowance of general members will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
3. Members' normal contribution rates shall be as provided by Government Code Sections 31621 for general members.
4. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.

5. From June 25, 2004 through June 23, 2005, as provided by Government Code Section 31581.1, the County will pay toward the employee's total retirement contribution as determined by B.3. and 4., above, the statutory maximum allowable of up to one-half (1/2) to a maximum of five (5) percent.
- C. Members' normal and cost-of-living contributions will be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
  - D. From June 25, 2004 through June 23, 2005, the County will pay any remaining contributions normally required of the employee, pursuant to Government Code Section 31581.2
  - E. Employees who are general members of the retirement system, who retire on or after July 1, 2005, will be provided a one-fiftieth (1/50) retirement benefit calculated pursuant to Section 31676.19 of the Government Code. (This retirement benefit formula is commonly known as the "2.7% at 55" benefit formula.)"
  - F. Employee retirement contributions pursuant to the "2.7% at 55" benefit formula.
    1. Effective with the pay period that commences on June 24, 2005, normal employee contribution rates to the retirement system, for general members, will be calculated pursuant to Section 31621.8 of the Government Code.
    2. The County will continue to adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
    3. Effective with the pay period that commences on June 24, 2005, general members in this bargaining unit will make an additional employee contribution to the retirement system, in an amount equal to 0.54% of compensation earnable. This contribution will be in addition to the normal employee contribution calculated under Section 31621.8 of the Government Code, and will be in addition to the employee contribution required to help provide full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary. The additional employee contribution made under this paragraph shall be in accordance with, and for the purposes stated, in Section 31678.3(d) of the Government Code. This additional contribution shall continue beyond the expiration date of this MOU, for the purpose of amortizing, over a 30 year period, the cost of the retirement benefit improvement resulting from the adoption of the "2.7% at 55" benefit formula in Section 31676.19 of the Government Code.

4. It is the intent of the parties that the implementation of the 2.7% at 55 retirement benefit formula shall be without additional cost to the County. After implementation of this benefit, the County and OCAA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.
  5. Any adjustments to employee contributions will be negotiated as part of the salary reopener discussions in 2006.
  6. Pursuant to Article XXII, Retirement, Section 1.F.4., adjustments to employee contributions will be considered during future negotiations.
- G. Employer "pick-up" of employee retirement contributions after June 24, 2005.
1. It is the intent of the parties that any increase in employee retirement contributions that occurs after June 24, 2005 as a result of implementation of the "2.7% at 55" retirement benefit, will be paid by the individual employees and not by the County. Therefore, the difference between (i) the employees' normal contribution rate calculated pursuant to Government Code Section 31621.8, and (ii) the employees' previous normal contribution rate (calculated under Government Code Section 31621.5 for employees hired on or before September 20, 1979 and Government Code Section 31621 for employees hired on or after September 21, 1979), shall be paid by the employee and shall not be paid by the County under either Government Code Section 31581.1 or Section 31581.2, or under any other code section that would allow an employer "pick-up" of employee retirement contributions. Also, the additional employee contribution made under Section 31678.3(d) of the Government Code shall be paid by the employees, and not by the County.
  2. The County will continue to pay, on behalf of the employees, employee retirement contributions at the rates that were applicable prior to June 24, 2005. Specifically, the employee retirement contributions that will continue to be paid by the County will be (i) an amount equal to the normal employee contributions that would have been calculated under either Government Code Section 31621.5 (for employees hired on or before September 20, 1979) or Section 31621 (for employees hired on or after September 21, 1979), and (ii) any employee contributions needed for full reserve funding of cost-of-living increases to retirees. The County will make such payment under Government Code Section 31581.1, up to one-half of the employee's total retirement contribution to a maximum of five (5) percent of compensation, and Government Code Section 31581.2, for the remainder of such contributions paid by the County. All other employee contributions will be paid by the individual employees, through payroll deduction.

Section 2. Tax-Deferred Retirement Plan

The County will administer an approved tax-deferred retirement plan which will allow employees to reduce their taxable gross income by the amount of their retirement contribution. This plan, known as a 414H(2) plan, shall be in effect for the term of this Memorandum of Understanding subject to approval by the Internal Revenue Service.

# **EXHIBIT C**

MEMORANDUM OF UNDERSTANDING

2007 – 2011

COUNTY OF ORANGE

AND

THE ORANGE COUNTY ATTORNEYS ASSOCIATION

FOR THE

ATTORNEY UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Orange County Attorneys Association as the Exclusively Recognized Employee Organization for the Attorney Unit for the period beginning June 22, 2007 through June 18, 2009 and extended through June 16, 2011. Unless otherwise indicated herein, all provisions shall become effective June 22, 2007.

ARTICLE XXII RETIREMENT

Section 1. Contribution Rates and Benefit Levels

A. For employees hired on or before September 20, 1979:

1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Section 31676.12 of the Government Code for general members.
2. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
3. Members' normal contribution rates shall continue to be established as provided by Section 31621.5 of the Government Code for general members.
4. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
5. From June 25, 2004 through June 23, 2005, as provided by Government Code Section 31581.1, the County will pay toward the employee's total retirement contribution as determined by A.3. and 4., above, the statutory maximum allowable of up to one-half (1/2) to a maximum of five (5) percent.

B. For employees hired on or after September 21, 1979:

1. General members will be provided a one-sixtieth (1/60) retirement benefit allowance as provided in Section 31676.1 of the Government Code.
2. The retirement allowance of general members will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
3. Members' normal contribution rates shall be as provided by Government Code Sections 31621 for general members.
4. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.



5. From June 25, 2004 through June 23, 2005, as provided by Government Code Section 31581.1, the County will pay toward the employee's total retirement contribution as determined by B.3. and 4., above, the statutory maximum allowable of up to one-half (1/2) to a maximum of five (5) percent.
- C. Members' normal and cost-of-living contributions will be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.
  - D. From June 25, 2004 through June 23, 2005, the County will pay any remaining contributions normally required of the employee, pursuant to Government Code Section 31581.2
  - E. Employees who are general members of the retirement system, who retire on or after July 1, 2005, will be provided a one-fiftieth (1/50) retirement benefit calculated pursuant to Section 31676.19 of the Government Code. (This retirement benefit formula is commonly known as the "2.7% at 55" benefit formula.)"
  - F. Employee retirement contributions pursuant to the "2.7% at 55" benefit formula.
    1. Effective with the pay period that commences on June 24, 2005, normal employee contribution rates to the retirement system, for general members, will be calculated pursuant to Section 31621.8 of the Government Code.
    2. The County will continue to adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
    3. Effective with the pay period that commences on June 24, 2005, general members in this bargaining unit will make an additional employee contribution to the retirement system, in an amount equal to 0.54% of compensation earnable. This contribution will be in addition to the normal employee contribution calculated under Section 31621.8 of the Government Code, and will be in addition to the employee contribution required to help provide full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary. The additional employee contribution made under this paragraph shall be in accordance with, and for the purposes stated, in Section 31678.3(d) of the Government Code. This additional contribution shall continue beyond the expiration date of this MOU, for the purpose of amortizing, over a 30 year period, the cost of the retirement benefit improvement resulting from the adoption of the "2.7% at 55" benefit formula in Section 31676.19 of the Government Code.

4. It is the intent of the parties that the implementation of the 2.7% at 55 retirement benefit formula shall be without additional cost to the County. After implementation of this benefit, the County and OCAA will annually review its costs including costs impacted by changes in the investment earnings and evaluate whether any adjustments to employee contributions are necessary.
  5. The relative-ratio based methodology will be used during the term of the 2007-2011 contract to determine the additional employee contribution toward the 2.7% at 55 retirement benefit formula.
  6. Pursuant to Article XXII, Retirement, Section 1.F.4., adjustments to employee contributions will be considered during future negotiations.
- G. Employer "pick-up" of employee retirement contributions after June 24, 2005.
1. It is the intent of the parties that any increase in employee retirement contributions that occurs after June 24, 2005 as a result of implementation of the "2.7% at 55" retirement benefit, will be paid by the individual employees and not by the County. Therefore, the difference between (i) the employees' normal contribution rate calculated pursuant to Government Code Section 31621.8, and (ii) the employees' previous normal contribution rate (calculated under Government Code Section 31621.5 for employees hired on or before September 20, 1979 and Government Code Section 31621 for employees hired on or after September 21, 1979), shall be paid by the employee and shall not be paid by the County under either Government Code Section 31581.1 or Section 31581.2, or under any other code section that would allow an employer "pick-up" of employee retirement contributions. Also, the additional employee contribution made under Section 31678.3(d) of the Government Code shall be paid by the employees, and not by the County.
  2. The County will continue to pay, on behalf of the employees, employee retirement contributions at the rates that were applicable prior to June 24, 2005. Specifically, the employee retirement contributions that will continue to be paid by the County will be (i) an amount equal to the normal employee contributions that would have been calculated under either Government Code Section 31621.5 (for employees hired on or before September 20, 1979) or Section 31621 (for employees hired on or after September 21, 1979), and (ii) any employee contributions needed for full reserve funding of cost-of-living increases to retirees. The County will make such payment under Government Code Section 31581.1, up to one-half of the employee's total retirement contribution to a maximum of five (5) percent of compensation, and Government Code Section 31581.2, for the remainder of such contributions paid by the County. All other employee contributions will be paid by the individual employees, through payroll deduction.

Section 2. Tax-Deferred Retirement Plan

The County will administer an approved tax-deferred retirement plan which will allow employees to reduce their taxable gross income by the amount of their retirement contribution. This plan, known as a 414H(2) plan, shall be in effect for the term of this Memorandum of Understanding subject to approval by the Internal Revenue Service.

# **EXHIBIT D**



# AGENDA STAFF REPORT

Agenda Item

ASR Control 04-002097

**MEETING DATE:** 08/24/04  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office  
**DEPARTMENT CONTACT PERSON(S):** Susan Paul (714)834-2836

**SUBJECT:** Report and Recommendations Regarding Employment

<b>CEO CONCUR</b> Concur	<b>COUNTY COUNSEL REVIEW</b> Approved Resolution to Form	<b>CLERK OF THE BOARD</b> Discussion 3 Votes Board Majority
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**Budgeted:** N/A                      **Current Year Cost:** N/A                      **Annual Cost:** N/A

**Staffing Impact:** No                      **# of Positions:**                      **Sole Source:** N/A

**Current Fiscal Year Revenue:** N/A

**Funding Source:** ISF 292, Trust Fund 305

**Prior Board Action:** N/A

## RECOMMENDED ACTION(S)

1. Approve and adopt the Memoranda of Understanding for the following bargaining units: Attorney Unit, Craft and Plant Engineer Unit, Operations and Service Maintenance Unit, Community Services Unit, County General Unit, Healthcare Professional Unit, Office Services Unit, Sheriffs Special Officer and Deputy Coroner Unit, Supervisory Management Unit, and, as detailed in Exhibits A through I.
2. Approve and adopt the Memoranda of Understanding Amendments for the following bargaining units: Administrative Management Unit, Probation Services Unit, and Probation Supervisory Management Unit, as detailed in Exhibits J through L.
3. Approve and adopt the Personnel and Salary Resolution Amendments, as detailed in Exhibit M.
4. Approve and adopt the resolution implementing a 2.7@55 retirement formula for General members, effective July 1, 2005, as detailed in Exhibit N.
5. Adopt the Employee and Retiree Rate Tables and the Group Service Policies with CIGNA and Kaiser Health Plans for 2005, and authorize the Employee Benefits Manager to sign the Group Service Policies with CIGNA and Kaiser for 2005 after approval by the State of California's Department of Managed Care and direct the Employee Benefits Manager to report back if the Department of Managed Care requires any material changes to the policies.

6. Adopt the amended Premier Wellwise and Premier Sharewell Plan Documents for designated County employees and retirees.
7. Adopt the amended County of Orange, Section 125 Plan Document.

**SUMMARY:**

Honorable Board Members:

CEO/Employee Relations has concluded negotiations with the Orange County Employees Association, Orange County Attorneys Association, International Union of Operating Engineers, and the Service Employees International Union for contracts that expired on June 25, 2004. The proposed Memoranda of Understanding before you have been ratified by the membership of each of the units. The Memoranda of Understanding for each of the bargaining units are included in Exhibits A through I. Additionally, negotiations were conducted on health plan changes with OCEA for the Probation Services Unit and the Probation Supervisory Management Unit, and on health plan and retirement changes with the Orange County Managers Association for the Administrative Management Unit. The Memoranda of Understanding for each of these units are still in effect with the exception of the changes already noted. The proposed contract changes have been ratified by the membership of each of these units. The proposed MOU Amendments are included in Exhibits J through L. Amendments to the Personnel and Salary Resolution, which sets forth terms of employment for unrepresented management employees, are included in Exhibit M. These amendments reflect changes in health plans and retirement.

The rates for the self-funded and insured health plans administered by Human Resources are adopted annually prior to the Annual Open Enrollment period for the health plans, which will be in November 2004. Health benefit changes, 2005 rates, amended Plan Documents, and the Mercer Annual Report are included as Exhibits O through R.

**BACKGROUND INFORMATION:**

**Represented Employees**

The term of the proposed contracts before you is three years, effective June 25, 2004 through June 21, 2007, with the exception of the contract for the Craft and Plant Engineer Unit, which is a two year term, effective June 25, 2004 through June 22, 2006. The proposed contracts do not contain a general salary increase. The proposed contracts contain significant health benefit changes, which include increased co-pays for HMO's, increased deductibles for PPO's and a 5% payment of health premiums for Employee Only coverage, which will be effective January 1, 2005 for all employees. Health benefit changes are also contained in the exhibits.

The contracts also contain a change in retirement benefits. The 2.7@55 retirement formula will become effective July 1, 2005, and employees will begin making an ongoing retirement contribution by payroll deduction, beginning June 24, 2005, to pay the cost of the new retirement benefit. In addition to the retirement contribution which will be made by employees in the Attorney Unit, the Attorney Optional Benefit Plan amount will be reduced beginning in January 2005, and beginning in June 2005, the employer contribution to the 401(a) will cease.

Additionally, the proposed contracts address modifications to the Performance Incentive Program, incorporate a two-step grievance process for most units, standardize layoff provisions, and clarify the

annual reporting process to the County of the financial status of the Benefits Trusts in the OCEA, SEIU and IUOE Bargaining Units.

The Orange County Managers Association, representing the Administrative Management Unit, are included in the health benefit and retirement changes, and the related MOU amendments are included in the exhibits. The Orange County Employees Association (OCEA) representing the Probation Services Unit and the Probation Supervisory Management Unit are included in the health benefits changes, and the related MOU amendments are included in the exhibits.

### **Unrepresented Employees**

The Personnel and Salary Resolution (PSR) contains the terms and conditions of employment for unrepresented management, including the Executive Policy Unit, Law Enforcement Management, Groups 1, 2 and 3 Executive Management employees, Executive Aides and Executive Assistants. The health benefit changes that will go into effect on January 1, 2005 will also apply to all unrepresented management employees. Additionally, with the exception of Law Enforcement management, the 2.7@55 retirement formula will be effective for the unrepresented employees on July 1, 2005. All unrepresented employees will begin making a payment to cover the cost of the retirement benefit, effective June 24, 2005. Attached for adoption by your Board are applicable PSR amendments, which include their payment toward retirement.

### **Retirement and Health Benefit Changes**

In 2001 the California State Legislature passed Assembly Bill 616 that provided options for new retirement benefit formulas for public sector general members covered by both PERS and 1937 Act Retirement Plans. One of the available formulas is known as 2.7@55.

In 2002 the County requested that the Orange County Employees Retirement System (OCERS) perform an Actuarial Study. The study was performed by Towers Perrin in 2002, and updated by the same firm in June 2004. The study analyzed the current and future annual costs for changing the benefit for all current General members based on all years of service. These costs were made public on August 10, 2004.

Prior to the start of negotiations, extensive research was conducted regarding retirement formulas for public sector agencies. This research was conducted with both cities and counties throughout the State of California. Nearly all agencies had a retirement formula based on the age of 55, and four counties had implemented the 3@60 benefit formula allowed under AB 616. Research also showed that no other jurisdiction in the state has a retirement formula as low as the County's Tier 2 retirement formula, which covers more than 90% of the workforce.

Retirement benefit costs are based on the Orange County Employees Retirement (OCERS) actuarial analysis and include the cost of implementing the 2.7@55 benefit for the majority of the County's General members for all years of service.

The amount of contribution for employees in each of the bargaining units and for the unrepresented employees varies, as set forth in the attached MOU's, MOU Amendments and PSR Amendments, and was determined using cost information from the 2004 Actuarial Study of the Orange County Employees Retirement System and the projected savings from the health benefit changes. The percentage of pay contributions by bargaining unit, combined with Health Plan savings, cover the annual cost of implementing the retirement formula changes.

→ In addition, the proposed MOU's set forth the intent of the parties that the change is without additional cost to the County. The MOU's confirm that payments continue on past the expiration date of the contracts, and are intended to cover the 30-year amortization period. Annual review of the benefit and its associated costs, and consideration of future contribution levels, is also part of the agreements.

As discussed above, through negotiations with the labor organizations, there will be health benefit changes to all of the County's health plans effective January 1, 2005 for designated employees and retirees. Mercer Human Resources Consulting (Mercer), the County's current benefits consultant, calculated the savings estimates of the benefit changes for the insured Health Maintenance Organization (HMO) plans (Kaiser and CIGNA) and the self-funded Preferred Provider Organization (PPO) plans (Indemnity A, Premier Preferred Choice, Premier Wellwise and Premier Sharewell), and have projected that the net savings to the County will be approximately \$11,368,025 in 2005, and that in future years there will be increased savings, due to the changes to the County health plans as outlined below.

#### PPO Health Plans: Premier Wellwise and Premier Sharewell (Exhibit O)

- Eliminate Indemnity "A" Health Plan
- Eliminate Premier Preferred Choice Plan
- Increase the Premier Wellwise annual deductible from \$200 to \$300 per individual and to a maximum of \$600 per family
- Premier Wellwise Plans require the use of the Caremark Prescription Drug Card and Mail Order Program for all prescription expenses. Prescription claims for emergencies may still be filed through the claims administrator

#### HMO Health Plans: CIGNA & Kaiser

- Office Visit co-pay increases from \$5 to \$15
- Prescription co-pays increase from \$5 to \$10 for generic drugs and from \$5 to \$15 for brand name drugs
- Add a \$100 Inpatient Hospital Deductible per confinement
- Increase the Emergency room co-pay to \$50 (waived if admitted)

#### Change to All Health Plans for designated County Employees

- Implement an employee bi-weekly contribution for full time employees enrolled as "Employee Only" of 5% of the County's health plan premium for the plan selected by the employee

#### Craft and Plant Engineer Unit Employees

Effective January 1, 2005, the Craft and Plant Engineer Unit employees will be eligible to participate in the Health Care Reimbursement Account. The Section 125 Plan Document is amended to include this unit in the Health Care Reimbursement Account (Exhibit P).

#### 2005 Rates for the PPO and HMO Health Plans

Human Resources, Employee Benefits administers self-funded and insured health plans for County employees and retirees. Rates for these plans are adopted annually prior to implementation of the Annual



Open Enrollment period for the health plans, which will be in November 2004. The following details the 2005 rates for the PPO and HMO health plans.

2005 PPO Health Plan Rates: Premier Wellwise and Premier Sharewell

The value of the employee and retiree benefit changes for the PPO health plans is based on actuarially derived pricing factors from Mercer Human Resources Consulting, the County's current benefits consultants. By eliminating Indemnity A and consolidating Premier Preferred Choice into the Premier Wellwise Plan, the assumption is that all employees and retirees currently enrolled in these plans will enroll under the Premier Wellwise plan. The 2005 rates developed for the Premier Wellwise plan represent a blend of the higher cost Indemnity A and Premier Preferred Choice plans rates and the current lower cost Premier Wellwise rates previously subsidized by the Premier Preferred Choice plan rates. For employees and for all retirees, this results in the 2005 Premier Wellwise blended rate being lower than the 2004 Indemnity A and Premier Preferred Choice Plan rates and higher than the current 2004 Premier Wellwise rates. The new blended rate for the 2005 Premier Wellwise Plan more accurately reflects the value of the benefits offered under the plan.

For designated County Employees and Retirees

Premier Wellwise: Amount of increase 30%  
Premier Sharewell: Amount of increase 4.7%

Health Maintenance Organizations (HMO): CIGNA and Kaiser

The value of the employee and retiree benefit changes for the HMO plans is based on CIGNA and Kaiser's actuarially derived pricing factors. Actuaries from Mercer Human Resources Consulting reviewed the HMOs pricing factors for reasonableness. The 2005 rates for the CIGNA and Kaiser plans are decreasing due to the benefit design changes to the HMO plans for 2005. The 2005 HMO rate decreases are as follows:

For designated County Employees and Retirees

CIGNA Health Plan: (4.1%)  
Kaiser Health Plan: (5.2%)

For IUOE Employees

CIGNA Health Plan (no chiropractic coverage): (5.3%)  
Kaiser Health Plan: (4.9%)

The 2005 Health Plan Rate tables are reflected in Exhibit Q. A copy of the Mercer Annual Report is attached as Exhibit R.

The CIGNA and Kaiser Group Service Policies for 2005 reflect the plan changes. The Group Service Policies for CIGNA and Kaiser are not subject to the County's Purchasing policies. They are documents that outline the health benefits coverage offered to employees and retirees enrolled in the CIGNA and Kaiser plans through the County of Orange. These documents are subject to final approval by the State of California's Department of Managed Care. Approval by the State is anticipated in December of this year for a January 1, 2005 effective date. Copies of the Group Service Policies are on file at the Clerk of the Board.

2005 Retiree Medical Insurance Grant:

The Retiree Medical Insurance Grant for 2005 will be \$15.67 per month for each year of service up to a maximum of 25 years or \$391.75 per month, effective January 1, 2005.

**Conclusion**

In conclusion, health benefit changes and associated cost savings were determined by Mercer Human Resources Consulting. The 2004 Actuarial Report, Health Plan design cost savings projections and the various employee payment configurations have been reviewed by the CEO, the Chief Financial Officer, and the Auditor-Controller, who have verified and concur with the actuarial information, health plan savings and the retirement payment strategy. The OCERS Chief Executive Officer has reviewed and concurred with the actuarial assumptions, the individual bargaining unit costs and the costs for the unrepresented employees. Retirement language in the attached MOU's, MOU amendments and the Board Resolution adopting the retirement formula was developed by County Counsel.

The various labor organizations, the Auditor-Controller, the CEO for the Board of Retirement, the Chief Financial Officer, Employee Benefits and CEO Employee Relations have worked together in a collaborative effort to develop a sound business strategy to address important benefit and retirement issues. The changes to both the health plans and to the retirement formula are significant and represent the culmination of some long and challenging negotiations. The labor organizations have responded to the challenge of changing the retirement formula by agreeing to share a greater portion of health care costs and agreeing to contribute an ongoing percentage of pay. Additionally, there are multiple years of no general wage increases as part of these agreements. All parties have worked creatively to achieve a strategic solution to difficult issues.

Additionally, the contracts before you are within the parameters established by your Board in closed sessions on April 20, May 18, July 27, July 28, August 3 and August 10, 2004.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCIES:**

CEO, County Counsel

**EXHIBIT(S):**

- A - Attorney Unit MOU
- B - Craft and Plant Engineer Unit MOU
- C - Operations and Service Maintenance Unit MOU
- D - Community Services Unit MOU
- E - County General Unit MOU
- F - Healthcare Professional Unit MOU

G - Office Services Unit MOU  
H - Sheriffs Special Officer and Deputy Coroner Unit MOU  
I - Supervisory Management Unit MOU  
J - Administrative Management Unit MOU Amendments  
K - Probation Services Unit MOU Amendments  
L - Probation Supervisory Management Unit MOU Amendments  
M - Personnel and Salary Resolution Amendments  
N - Resolution adopting 2.7 @ 55 Retirement Formula  
O - PPO Plan Documents with Benefit Changes  
P - Section 125 Plan Document  
Q - 2005 Employee and Retiree Health Plan Rate Tables  
R - Mercer Annual Report