

**RESOLUTION NO. 2013-\_\_**

**A RESOLUTION OF THE ORANGE COUNTY BOARD OF SUPERVISORS  
RESOLVING A FAILURE BY REPRESENTATIVES OF THE COUNTY AND THE  
ORANGE COUNTY ATTORNEYS ASSOCIATION TO AGREE UPON THE TERMS  
AND CONDITIONS FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING  
BETWEEN THE TWO PARTIES**

**WHEREAS**, the representatives of the County of Orange (County) and the Orange County Attorneys Association (OCAA) have engaged in multiple meet and confer sessions in accordance with the Meyers Milius Brown Act (MMBA, Government Code section 3500 et seq.), in an effort to negotiate a successor to the 2007-2011 Memorandum of Understanding (MOU) between the parties; and

**WHEREAS**, despite good faith negotiations representatives of the County and OCAA have failed to agree upon a successor to the 2007-2011 MOU between the parties; and

**WHEREAS**, the County presented OCAA with a Last, Best & Final Offer on August 24, 2012; on September 13, 2012 OCAA verbally advised the County that it did not agree to the County's Last, Best & Final Offer, and as a consequence, the County declared an impasse in negotiations; and

**WHEREAS**, pursuant to the MMBA the parties participated in mediation on October 18, 2012; and

**WHEREAS**, on October 29, 2012, OCAA requested fact finding pursuant to Govt. Code section 3505.4 and such fact finding hearing was held on December 10, 2012; and

**WHEREAS**, on January 2, 2013, Fact Finding Chair Tony Butka submitted a draft Findings of Fact and Recommended Terms of Settlement to the parties; and

**WHEREAS**, further discussions between the parties have failed to resolve the bargaining impasse, which included an offer by the County to agree to the Fact Finding Chair's draft recommendations if it resulted in an agreement, which the OCAA membership subsequently rejected; and

**WHEREAS**, the final Fact Finding report and recommendations, including a dissent filed by the OCAA representative, was submitted on February 18, 2013, and published by the County on February 22, 2013; and

**WHEREAS**, pursuant to Govt. Code section 3505.7 no earlier than 10 days after the factfinders' written findings of fact and recommended terms of settlement have been submitted to the parties, the County may, after holding a public hearing regarding the impasse, implement its last, best, and final offer, but shall not implement a memorandum of understanding; and

**WHEREAS**, a public hearing regarding the impasse was held on March 5, 2013.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Orange does resolve, declare, determine and order as follows:

**Section 1.** Unless otherwise indicated in this Resolution the following changes in wages, hours and other terms and conditions of employment for those employees in the unit represented by the Orange County Attorneys Association shall be implemented concurrent with approval and adoption of this Resolution. This Resolution shall take precedence over any conflicting County ordinances, rules, regulations, policies, memoranda of understanding or other documentary provisions.

**Section 2.** Concurrent with Board adoption of this Resolution, the unilaterally implemented changes in terms and conditions of employment for those employees in the unit represented by the Orange County Attorneys Association are:

- \* Term – there is no agreement and thus no term. Implementation shall be consistent with the requirements of the MMBA.
- \* Retirement (Employee Contribution) – for employees in the 2.7% @55 plan, unit members will pay the full member contributions, and the County will not pick-up member contributions as permitted by Government Code Section 31581.1 and 31581.2 (pick-ups 1 & 2), effective the first pay period following Board adoption of this Resolution; for new hires (“new members” within the meaning of the Public Employees’ Pension Reform Act of 2013 (PEPRA)) unit members will pay at least 50% of the normal cost rate as required by PEPRA.
- \* Retirement Formula – in accordance with new state law, “new members” as defined by PEPRA are to be governed by the provisions of PEPRA (i.e., 2% @62 with 3 year Final Average Salary).
- \* Timing of Initial Merit Increases – full time employees hired on or after Board adoption will be eligible for a merit increase after one year (2080 hours) of service; part time employees hired on or after Board adoption will be eligible for a merit increase upon completion of 2080 hours of service.
- \* Amount of Merit Increases – merit increases may be granted for one or two steps within the salary range based upon the employee’s performance; a performance rating of “meets performance objectives” (standard performance) will earn a one (1) step increase.
- \* Health Insurance – implement the Mercer recommendations at such date as the County determines; modify language to conform to current practices.
- \* Discipline/Appeal Procedure – use advisory arbitration, rather than binding arbitration for discipline appeals; use mediation upon request of either party.
- \* Premium Pays – all premium pays to be paid on an hours worked basis rather than on hours in paid status; all premium pays (i.e., special duty pay) to be paid on a dollar amount and not a percentage of pay.

\* Workers Compensation Supplemental Pay – eliminate supplemental pay for work-related injuries/illnesses which arise on or after the date of Board adoption; delete section 4 of Art. XII in the 2007-11 MOU.

\* Layoffs – eliminate length of continuous service and layoff points from consideration of the order of layoff; instead base the determination as to whom to lay off on the needs of the organization (knowledge, skills, performance) as determined by management.

\* Mileage – Mileage rate to be based on the IRS standard mileage rate.

\* Non-discrimination – Refer to state and federal law rather than periodically update specific protected categories to conform to changes in the law.

\* Annual Leave Payoff – modify payoff provisions upon separation from service, such that any annual leave taken during the final three (3) pay periods of employment will be deducted from the amount of annual leave paid to the employee upon separation from service.

\* Various Leave Provisions – add domestic partner as an immediate family member for use of family leave, annual leave and bereavement leave; Human Resources Director to make the final decision on denials of leave of absence requests; eliminate appeal to the Board of Supervisors; clarify provisions regarding unpaid leaves of absence; update family leave to conform to new provisions of the FMLA.

\* Reemployment of Employees on Disability Retirement – Refer these individuals to OCERS to determine impacts of reemployment on their disability retirement benefits.

\* Extra Help/Extra Help Positions – eliminate references to these positions as they are not represented by OCAA.

\* Bereavement Leave – 40 hours for full-time employees and 20 hours for part time employees, rather than 5 days.

\* Educational and Professional Reimbursement – clarify that requests for reimbursement are not automatic and are subject to approval of the agency/department head.

**Section 3.** The Board of Supervisors hereby approves and adopts the foregoing unilaterally implemented changes in terms and conditions of employment, as more fully set forth in the attached document, entitled Imposition of Terms and Conditions of Employment for the Attorney Unit, attached hereto.

**APPROVED AND ADOPTED** this 5<sup>th</sup> day of March, 2013

Resolution No. \_\_\_ Item No. \_\_\_