

# **COLLECTIVE BARGAINING AGREEMENT**

between

**USDA RURAL DEVELOPMENT COLORADO**

and

**AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES**

**LOCAL 3499**

**Effective December 1, 2021**

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## **PREAMBLE**

The accomplishment of the mission of Rural Development Colorado (Agency) is paramount. In fulfilling its mission, the Agency is committed to continuing to treat all employees fairly and equitably. The Agency encourages the participation of the American Federation of Government Employees Local 3499 (Union), as exclusive representative of bargaining unit employees, in the formulation and implementation of personnel policies affecting members of the bargaining unit. The Parties recognize that it is in the best interest of all parties, i.e., the Agency, the Union and the employees, to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day-to-day working relationships in carrying out labor/management activities.

This Agreement is made pursuant to the policy set forth by the Civil Service Reform Act of 1978 regarding federal labor-management relations. The following articles of this basic Agreement, together with any and all supplemental agreements which may be agreed to at later dates, constitute a total agreement by and between the Agency and the Union.

## **DEFINITIONS**

- A. **ADVERSE ACTION:** A personnel action which affects an employee through removal; suspension; reduction-in-grade or pay; or furlough without pay for 30 days or less. Such actions may be appealable to the Merit System Protection Board (MSPB) or through the negotiated grievance procedure (depending on scope) at the employee's choice, but not both (5 U.S.C. Chapter 71 § 7121 (d)). It does not include removal of a probationary employee; a suspension or removal for national security reasons; a reduction in grade or a removal for unacceptable performance; or an action by the Special Counsel of the MSPB.
- B. **AGENCY:** United States Department of Agriculture (USDA) Rural Development (RD) – Colorado, also known as "Management".
- C. **AMENDMENTS:** Modifications to the basic Agreement to delete or change portions, sections, or articles of the Agreement.
- D. **AUTHORITY:** The Federal Service Labor Relations Authority (FLRA) as established by the Civil Service Reform Act of 1978, Labor Management Statute 5 U.S.C. Chapter 71
- E. **BUSINESS ATTIRE:** Appropriate business attire for men may include but is not limited to: formal suits, ties, business shirts, sport coat with dress pants and dress shoes. Appropriate business attire for women may include but is not limited to: skirt suits or pant suits with formal business blouses or tops and dress shoes.
- F. **BUSINESS CASUAL ATTIRE:** Appropriate business casual attire may include, but is not limited to: slacks or khakis, trouser-like jeans, dress shirt or blouse, open-collar or polo shirt, optional tie or sport coat, dress or skirt, blazer, knit shirt or sweater, and loafers or dress shoes/sandals.
- G. **CASUAL ATTIRE:** Appropriate casual attire may include, but is not limited to: jeans (tattered, ripped or cut-offs must not be worn), leggings or other casual pants, casual shirts and casual shoes including tennis shoes and sandals are permitted provided they are in good condition and appropriate for the work setting.
- H. **COLLECTIVE BARGAINING:** The performance of the mutual obligation of the Agency Representative and Exclusive Representative of the employees to meet at reasonable times and consult and bargain in good faith to reach an agreement with respect to the conditions of employment affecting such employees. The representatives are obligated to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but obligation referred to in this paragraph does not compel either party to agree to a proposal or to make concession.



- I. CONFIDENTIAL EMPLOYEE: An employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.
- J. CREDIT HOURS: Those hours within a Flexible Work Schedule that an employee elects to work in excess of his/her/their basic work requirement so as to vary the length of his/her/their workweek or workday.
- K. DAYS: Calendar Days
- L. DE MINIMIS: Trivial or minor changes to conditions of employment.
- M. DISCIPLINARY ACTIONS: Management-initiated actions designed to correct employee behavior. Disciplinary actions may include written reprimands and suspensions of 14 days or less. Disciplinary actions are less severe than adverse actions and are grievable through the negotiated grievance procedure to arbitration.
- N. EMERGENCY SITUATION: An emergency situation is one which poses sudden immediate and unforeseen work requirements for the Agency as a result of natural phenomena or other circumstances beyond the Agency's control or ability to anticipate.
- O. EMPLOYEES: Employees of the bargaining unit as described in Article I "Parties to the Agreement, Recognition, Definition of Bargaining Unit and Coverage of the Agreement."
- P. FORMAL DISCUSSION: Under 5 U.S.C. Chapter 71, § 7114(a)(2)(A), a discussion between an agency representative(s) and bargaining unit employee(s) concerning any grievance or any personnel policy or practice or other condition of employment which affects bargaining unit employees. The exclusive representative must be given the opportunity to be represented at these meetings.
- Q. FORMAL DISCIPLINE: Official letter of reprimand that is maintained in an employee's electronic Official Personnel File not to exceed two (2) years.
- R. FURLOUGH: A placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds or other non-disciplinary reasons. Two types of furloughs are "save money" furloughs and "emergency/shutdown" furloughs.
- S. GRIEVANCE: A request for relief in a matter of concern or dissatisfaction: 1) by any employee concerning any matter relating to the conditions of employment of

the employee; 2) by the Union concerning any matter relating to the conditions of employment of any employee; or, 3) by any employee, labor organization, or Agency concerning: (i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or (ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

T. **IMPASSE:** The inability of the representatives of the Agency and the Union to arrive at a mutually agreeable decision concerning negotiable matters through the bargaining process.

U. **INFORMAL DISCIPLINE:** To correct inappropriate behavior or conduct; motivate employees to conform to acceptable standards of conduct, laws, rules, regulations, instructions, orders or requirements; and to preclude future infractions. Informal discipline includes the following:

1. **Oral counseling:** A discussion between the supervisor and employee to induce proper behavior and/or conduct.
2. **Written counseling:** A written document from the supervisor to the employee to induce proper behavior and/or conduct. There is no requirement for oral counseling to occur before a written counseling is issued. Examples of written counseling include: Letter of Warning, Letter of Instruction or email.

V. **MANAGEMENT OFFICIAL:** An individual employed by the Agency in a position where the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the Agency.

W. **NEGOTIABILITY DISPUTE:** A dispute over whether or not an issue is negotiable within the scope of bargaining established in Title VII of the Civil Service Reform Act of 1978. Compelling disputes are resolved by the FLRA. Regulations of the Authority provide specific procedures for processing such disputes are found in 5 U.S.C. Chapter 71, § 7117.

X. **NEGOTIATION:** Bargaining of representatives of the Agency and Union over appropriate issues relating to terms of employment, working conditions, and personnel policies and practices, with a view toward arriving at a formal agreement.

Y. **PROFESSIONAL EMPLOYEE:** Professional work requires knowledge in a field of science or learning characteristically acquired through education or training equivalent to a bachelor's or higher degree with a major study in or pertinent to the specialized field, as distinguished from general education. The titles of professional positions usually reflect the field concerned, e.g., engineer or architect.

Z. **SENIORITY:** A ranking of bargaining unit employees based on each employee's

service computation date for leave.

- AA. SUPERVISOR: An individual employed by an Agency having authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.
- BB. SUPPLEMENTS: Additional articles negotiated during the term of the basic Agreement.
- CC. UNION: American Federation of Government Employees (AFGE) Local 3499.
- DD. UNION OFFICIAL/REPRESENTATIVE: Duly elected or appointed officials of AFGE Local 3499 who are employees of the Agency.
- EE. UNION OFFICER: An elected official of the Union, e.g., President, Vice-President, Secretary, Treasurer.
- FF. UNFAIR LABOR PRACTICE (ULP) CHARGE: A charge filed by the Union or Agency with the appropriate Regional FLRA office citing the subsections of 5 U.S.C. Chapter 71, § Section 7116 which have been violated, naming the party in violation, and specifically outlining the facts which form the basis for the charge. Filing must be done within six months of the incident(s) giving rise to the charge. Taking this step starts the unfair labor practice procedure. A copy of the charge must be served to the Agency or Union alleged to have violated Title VII of the Civil Service Reform Act of 1978.

## **ARTICLE 1 – PARTIES TO THE AGREEMENT, RECOGNITION, DEFINITION OF BARGAINING UNIT, AND COVERAGE OF THE AGREEMENT**

1.1 **PARTIES TO THE AGREEMENT**: The parties to this Agreement are the State and Area Offices in Colorado of the U.S. Department of Agriculture, Rural Development (RD), hereinafter known as the “Agency or Employer”, and the American Federation of Government Employees, American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), and its agent, American Federation of Government Employees (AFGE) hereinafter known as the “Union”.

1.2 **UNIT OF RECOGNITION**: The unit of recognition covered by this Agreement (hereinafter referred to as the bargaining unit) is that unit certified by the Federal Labor Relations Authority in Case No. DE-RP-60031 “Certification of Voluntary Agreement” dated October 1, 1996. (Appendix A) The Agency recognizes AFGE Local 3499, as the exclusive representative of all bargaining unit employees (hereinafter referred to as “employees”).

1.3 **BARGAINING UNIT**: This Agreement applies to all members of that unit named in Case No. DE-RP-60031 “Certification of Voluntary Agreement” dated October 1, 1996 described therein as follows:

INCLUDED: All employees employed by U.S. Department of Agriculture, Rural Development in the State of Colorado, including professionals.

EXCLUDED: All management officials, supervisors, and employees described in 5 U.S.C. 7112 (b)(2), (3), (4), (6) and (7).

1.4 **COVERAGE OF THE AGREEMENT**: This Agreement covers only those positions described in the bargaining unit.

## **ARTICLE 2 – GOVERNING LAWS AND REGULATIONS**

### **2.1 RELATIONSHIP TO LAWS, GOVERNMENT-WIDE RULES AND REGULATIONS:**

- A. In the administration of all matters covered by this Agreement, the Parties shall be governed by Federal laws and Government-wide rules and regulations. The Parties agree that this Agreement shall be consistent with applicable laws, rules, regulations, policies, procedures, practices, and Executive Orders, as amended.
- B. Provisions of this Agreement are valid to the extent that they do not conflict with the Constitution of the United States, any Federal Statute, or any Government-wide rule, regulation, policy, procedure, practice, or Executive Order.
- C. The Agency will comply, and may require employees to comply with Agency rules, regulations, policies, procedures, or practices, as amended, to the extent they do not conflict with this Agreement, or any supplement or amendment.
- D. The Parties do not waive any collective rights by agreeing to this Section.

**2.2 PREVIOUS AGREEMENTS AND PAST PRACTICES:** This Agreement supersedes all previous agreements, memorandum of agreements/memorandum of understandings and past practices.

## **ARTICLE 3 - UNION AND MANAGEMENT RIGHTS**

3.1 **GENERAL**: In matters relating to personnel policies, practices and other conditions of employment, the Parties shall have due regard for the responsibilities and obligations imposed by 5 U.S.C. Chapter 71, this Agreement, and supplements thereto. Management and the Union shall conduct themselves in a professional and businesslike manner, characterized by a mutual courtesy in their day-to-day working relationship.

3.2 **RESTRAINT**: The Agency shall not restrain, interfere with or coerce any Union official or representative in the exercise of their rights under 5 U.S.C. Chapter 71, § 7102 because of the performance of duties within the scope of this Agreement, or against any bargaining unit member for filing a grievance/complaint, or acting as a witness under this Agreement, law, or applicable regulations.

### **3.3 REPRESENTATION:**

- A. The Union is the exclusive representative of the bargaining unit and is entitled to act on behalf of bargaining unit employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership.
- B. Designated officers or representatives of the Union have the right to represent the employees within the entire bargaining unit in accordance with the provisions of Article 9, "Union Representation and Official Time" of this Agreement. The Agency shall recognize representatives designated by the Union.
- C. The Union shall provide the Agency current listings of officers and stewards, identifying the Union office each holds.
- D. The Agency shall permit officials or other representatives designated by the Union, including persons not employed by the Agency, to enter and visit the Agency's premises at any time during normal working hours following adequate advance notice in order to represent employees, inspect physical structures, evaluate programs and perform other similar representational tasks. To the extent reasonably possible, the Union shall coordinate these visits with the Agency at the premises where the visit is to occur. Once the Union provides the Agency a current listing that shows an individual as an officer and/or steward, that individual shall not be required to provide advanced notice of a visit in order to attend a meeting called by the Agency or required by this Agreement or law.

### **3.4 UNION RIGHTS AND RESPONSIBILITIES:**

- A. The Union has the right to represent an employee or group of employees in presenting a grievance or when raising matters of concern or dissatisfaction with the Agency.
- B. The Union has the exclusive right to represent employees under Article 7,

“Grievance Procedure” in this Agreement and any other appeals process established as a result of bargaining.

- C. An employee or group of employees may present a grievance or complaint without representation by the Union, by notifying the Agency and Union in writing that they have chosen to represent themselves in the proceeding.
- D. The Union will be a party to all formal discussions and grievance/complaint proceedings involving conditions of employment in the bargaining unit.

### 3.5 FORMAL DISCUSSIONS:

- A. Consistent with 5 U.S.C. Chapter 71, § 7114(a)(2)(A), the Agency will give the Union, as the exclusive representative of bargaining unit employees, an opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practice or other general conditions of employment.
  - 1. An individual performance counseling session is not a formal discussion, and
  - 2. An oral reply to a proposed disciplinary/adverse action is not a formal discussion.
- B. The Agency will give the Union such opportunity to be present by delivering to its President or designee written reasonable advance notice of the formal discussion. At a minimum, the notice shall identify the expected: date and time of the meeting; facility and room in which the meeting shall be held; employee(s) with whom the meeting is to be held; Agency representative(s) who will attend; and general subject of the meeting. In each case, whether written advance notice of a formal discussion was reasonable depends on the specific circumstances of that case.
- C. The Agency will also approve, upon request, reasonable official time for the Union President or designee to attend the formal discussion.

3.6 WORKING RELATIONS: The Parties, especially Union representatives and first-line supervisors, are encouraged to meet informally as necessary to discuss and attempt to resolve matters of concern.

3.7 NOTIFICATION OF CHANGES IN WORKING CONDITIONS: The Parties recognize that changes may occur in the workplace on a regular basis. Whenever either party decides to change a matter affecting conditions of employment subject to bargaining under 5 U.S.C. Chapter 71, it will give the other party notice as required by Article 5, “Negotiations During the Term of the Agreement” of this Agreement.

3.8 NOTIFICATION TO EMPLOYEES OF EXCLUSIVE REPRESENTATION: The Union will provide a general notice to employees of the exclusive recognition granted to

the Union. A list of Union-designated representatives, their work locations and telephone numbers will be posted on the Colorado SharePoint site or other current electronic methods.

3.9 COMMUNICATIONS WITH BARGAINING UNIT EMPLOYEES: Consistent with 5 U.S.C. Chapter 71, § 7114(a)(1) the Agency will not communicate directly with employees regarding conditions of employment in a manner that improperly bypasses the Union.

3.10 MANAGEMENT RIGHTS – GENERAL: Subject to the obligation to bargain established by 5 U.S.C. Chapter 71, § 7106, nothing in this Agreement shall affect the authority of the Agency:

- A. To determine the mission, budget, organization, number of employees, and internal security practices.
- B. In accordance with applicable laws:
  - 1. To hire, assign, direct, layoff, and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
  - 2. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Agency's operations shall be conducted;
  - 3. With respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or from any other appropriate source, and
  - 4. To take whatever actions may be necessary to carry out the Agency mission during emergencies.

3.11 OTHER AGREEMENTS: The provisions of this Article will apply to all subsequent agreements between the Agency and the Union.

3.12 MANAGEMENT RIGHTS WITH RESPECT TO NON-BARGAINING UNIT EMPLOYEES: The Agency reserves its statutory rights with regard to all matters affecting employees and positions outside the bargaining unit.



## **ARTICLE 4 – EMPLOYEE RIGHTS**

### **4.1 ORGANIZATIONAL RIGHTS:**

- A. Each employee in the bargaining unit shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal; and each employee shall be protected in the exercise of such right.
- B. Except as otherwise provided under 5 U.S.C. Chapter 71, § 7102, bargaining unit employees have the right:
  - 1. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
  - 2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under 5 U.S.C. Chapter 71, § 7102.

**4.2 PERSONAL RIGHTS:** There shall be no restraint, interference with or coercion against any bargaining unit member in the exercise of his/her/their rights under 5 U.S.C. Chapter 71, § 7102.

- A. The Employer and the Union shall annually inform bargaining unit employees of their rights under 5 U.S.C. Chapter 71, § 7114(a)(2)(B), including but not limited to posting a notice on the official bulletin boards.
- B. This Agreement shall not prevent any employee, regardless of Union membership, from bringing any matter of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, or Agency policies, or from choosing his/her/their own representative in a statutory appeal action.
- C. Nothing in this Agreement shall cancel or annul any employee right or require an employee to become or to remain a member of a labor organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.
- D. An employee shall not be disciplined or otherwise discriminated against because he or she has filed a complaint or given testimony under the Civil Service Reform Act of 1978, the negotiated grievance procedure, or any other procedure available to redress complaints.

- E. The Parties agree that, to the extent possible, instructions, directives and orders communicated to employees by Agency officials should be reasonably consistent. An employee who does not understand an instruction, directive or order has the right to request clarification of that communication. To the extent possible, a supervisor's instruction, directive or order must be complied with once given, whether or not the employee believes those instructions to be consistent, fair or reasonable. An employee who concludes that a supervisor's instruction, directive or order is not consistent, fair or reasonable has the right to pursue his/her/their dissatisfaction through the negotiated grievance procedure.

#### 4.3 RIGHT TO UNION REPRESENTATION:

- A. If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee will have the right to contact the Union representative on duty time, so long as the employee's exercise of this right does not interfere with the normal operations of the office. If the employee needs to use the telephone or e-mail for more than fifteen (15) minutes, the employee must first consult with his/her/their immediate supervisor. If the employee begins to use the telephone or e-mail believing such use will require less than fifteen (15) minutes but finds the use took more than that amount of time, the employee must immediately report the fact to his/her/their immediate supervisor and request approval for his/her/their use of duty time. If the supervisor denies the employee's request after twenty-four (24) hours have elapsed, the supervisor will submit in writing his/her/their reasons for the denial to the employee, Union, and the Agency.
- B. If the Union representative is located outside the employee's duty station and a personal contact is needed, the employee and supervisor will agree on the appropriate time and date to meet with the Union representative. The appropriate procedure to be used in such instances is covered in Article 9, "Union Representation and Official Time" of this Agreement.
- C. The Union shall be given the opportunity to be present at any Agency examination of a bargaining unit employee in connection with an investigation if:
  - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
  - 2. The employee requests representation.
- D. The right to Union representation is not intended to interfere with the routine interaction between supervisors and employees in the normal course of a workday.

## **ARTICLE 5 – NEGOTIATIONS DURING THE TERM OF THE AGREEMENT**

5.1 MATTERS NOT COVERED BY THIS AGREEMENT: Recognizing that the Agreement cannot cover all aspects or provide definitive language on each subject addressed, it is understood that the obligation to engage in impact and implementation bargaining is limited to subjects not covered by this Agreement.

### 5.2 IMPACT AND IMPLEMENTATION BARGAINING PROCEDURES:

A. Whenever the Agency decides to make a change which affects a condition of employment, it shall provide the Union President or designee reasonable written notice of the change at least ten (10) days in advance of the anticipated date of implementation unless: the change is already covered by this Agreement; and/or the Union has already waived its right to bargain about the change.

1. The notice shall include a statement of: the specific changes; the general identity of the employees who will be impacted; and estimated date of implementation.
2. The Union may request to negotiate within ten (10) business days of receipt of the proposed change and submit proposals with the request to negotiate. Those proposals must be germane to the subject submitted by the Agency.
3. Negotiations will begin no later than seven (7) days following the written proposals submitted by the Union.
4. Time limits described above may be extended by mutual agreement.

B. The Parties recognize that the timeframes set in this Agreement to initiate bargaining are based upon normal circumstances and may occasionally need to be shortened to meet compelling operational needs. The Agency agrees not to set artificial deadlines for implementing changes in order to circumvent the normal timeframes.

C. The following ground rules apply for impact and implementation bargaining:

1. Negotiations shall take place as soon as practicable during regular duty hours unless otherwise mutually agreed by the Parties.
2. The Agency will provide a site for negotiations.
3. The Union will be authorized the same number of Union representatives on official time as the Agency has representatives at the negotiating table.
4. Agreements reached will be written and signed by both Parties.
5. All written agreements will be assigned a control number as follows: a four-digit number representing the calendar year; followed by two additional digits representing the number of written agreements signed that year. For example, the first written agreement signed in calendar year 20XX will be numbered 20XX-01; the eleventh written agreement signed in calendar year 20XX will be numbered 20XX-11. This control number will be located in the upper right-hand corner of the document.
6. The written agreements reached under this Article will be subject to

reopening upon expiration of this Agreement.

5.3 IMPASSE PROCEDURES: If agreement cannot be reached on the matters under negotiation, the following procedures apply.

- A. Neither party may declare an impasse until all Articles and Sections are agreed to or declared nonnegotiable by the Agency or declared at an impasse by either party. The Parties agree that each will use their best good-faith efforts to avoid impasse in negotiations.
- B. Either party declaring any provision nonnegotiable will provide to the other party a statement of non-negotiability and the reasons therefore, without prejudice to later supplementation of the reasons.
- C. In the event either party declares an impasse in negotiations, the Federal Mediation and Conciliation Service (FMCS) will be immediately requested to provide services and assistance to resolve the dispute pursuant to 5 U.S.C. Chapter 71, § 7119.
- D. If the mediation services of the FMCS do not result in resolution of the impasse, either party may invoke the services of the Federal Service Impasse Panel (FSIP) pursuant to 5 U.S.C. Chapter 71, § 7119. Prior to taking such action, however, the party seeking to invoke the services of the FSIP will provide written notice to the opposing party of its intention to take such action.

## **ARTICLE 6 – EFFECTIVE DATE, DURATION AND DISTRIBUTION OF AGREEMENT**

6.1 **GENERAL**: Each Party shall have its own original copy of this Agreement.

6.2 **EFFECTIVE DATE**: This Agreement shall become effective on the earlier of the following two dates: (1) the 31st day from the date it was executed by the Parties unless it has been disapproved by the Agency Head pursuant to 5 U.S.C. Chapter 71, § 7114(c)(2); or (2) the day it is approved after review by the Agency Head.

6.3 **DURATION OF AGREEMENT**:

- A. This Agreement shall renew itself automatically on the 3rd anniversary of its effective date, and annually thereafter, unless either party gives written notice of its desire to reopen the Agreement to be renegotiated not more than 105 days and not less than 60 days before the expiration date. Following receipt of such written notice, the Parties shall begin negotiations on ground rules within thirty (30) calendar days.
- B. At any time after one year from the effective date until six (6) months before the expiration date, each Party may submit a written notice to the other Party of its intent to re-open one article for re-negotiation on an annual basis. For such negotiations, the Parties shall follow the procedures as set forth in Article 5, “Negotiations During the Term of the Agreement” of this Agreement.
- C. Any supplements or amendments to this Agreement concluded by the Parties shall become part of this Agreement and shall terminate at the same time as this Agreement unless the Parties expressly provide otherwise in writing.

6.4 **PRINTING AND DISTRIBUTION**: Within thirty (30) days of the effective date of this Agreement, the Agency will post the Agreement on applicable sites such as the Colorado SharePoint. The Agency will notify bargaining unit employees of the posting via email.

## **ARTICLE 7 - GRIEVANCE PROCEDURE**

7.1 **COMMON GOALS**: It is the intent of the Agency and Union to have open discussions about disagreements in the workplace, to treat such matters seriously, and to cooperate in the spirit of mutual problem-solving to resolve disputes. Since grievances often arise from misunderstandings that can be settled promptly and satisfactorily on an informal basis, the Agency and Union will encourage potential grievants to discuss their complaints with the responsible management or Union officials at the lowest level before filing a written grievance. The Union, if requested by the employee, has the right to participate either personally or telephonically in such discussions with management officials. However, informal efforts may not lead to resolution.

The Agency shall not construe the filing of grievances as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization, nor shall the Union or employees file grievances in order to affect adversely the perception of the person or reputation of any representative of the Agency.

7.2 **SCOPE**: This grievance procedure may apply to applicable matters of concern or dissatisfaction by bargaining unit employees, the Union or the Agency regarding the interpretation, application or violation of law, regulation, or this Agreement.

7.3 **EXCLUSIVITY**: Representation of bargaining unit employees shall be the sole and exclusive province of the Union. This is the exclusive procedure available to bargaining unit employees, the Union or the Agency for the resolution of grievances arising under this Agreement.

7.4 **EXCLUSIONS**: Based on statutory prohibition, case law, and the lack of harm, the Parties agree to preclude the following types of issues from the negotiated grievance procedure, as not grievable / arbitrable:

- A. Claimed violations relating to prohibited political activities;
- B. Retirement, life insurance, or health insurance issues;
- C. Suspension or removal for national security reasons;
- D. Appointment, certification, or examination issues;
- E. The classification of any position which does not result in the reduction-in-grade or pay of the employee;
- F. Proposed adverse / disciplinary actions;
- G. Proposed removal or reduction-in-grade;
- H. Actions taken as the result of a reduction-in-force (RIF);

- I. Issues involving a non-bargaining unit position;
- J. Issues over which the Agency has / had no obligation to bargain;
- K. Issues which may be subject to the jurisdiction of the Equal Employment Opportunity (EEO) Commission;
- L. Issues regarding non-selection for promotion, temporary promotion, detail, or re-assignment;
- M. Progress reviews, counseling sessions, or notices of an opportunity to improve (OTI) / performance improvement plan (PIP)/ Demonstration Opportunity (DO);
- N. Actions which terminate any employee serving under a probationary, temporary, part-time, or term appointment;
- O. Position descriptions or performance work plan elements and / or standards;
- P. Issues involving salary offset or garnishment;
- Q. Issues involving veterans' preference;
- R. Issues involving oral warning, cautions, or admonishments.

Absent these exclusions, other alleged violations of contractual, conduct, or performance issues may be grievable.

7.5 GRIEVABILITY: Any time before the beginning of the Step One Grievance meeting as defined in 7.7 below, the Agency may declare an issue not grievable.

- A. Within fifteen (15) days of declaring an issue not grievable, the Agency shall present the reason for its decision, in writing, to the Union.
- B. Within fifteen (15) days of receiving the not grievable decision, the Union must accept the Agency decision or invoke arbitration. Failure to timely invoke arbitration is an acknowledgement of acceptance.
- C. If the Union invokes arbitration, the Parties shall suspend further action on the grievance until an Arbitrator decides the grievability issue.
- D. If the Arbitrator decides in favor of the Union, the Parties shall continue the grievance from the point in the process at which the Parties suspended the grievance.
- E. If the Arbitrator decides in favor of the Agency, the grievance process is ended, with prejudice.

7.6 REPRESENTATION: Employee(s) utilizing this grievance procedure will have the right to be represented and/or advised by the Union. In addition, an employee and or group of employees have the right to present or process a grievance under this procedure on their own behalf. In such cases, the Union will be afforded the opportunity to participate, on official time during any and all formal discussions/meetings, between the Agency and the grievant(s) relating to the grievance filed.

7.7 TIME LIMITS: The Parties agree that the initial filing time frames are absolute and shall not be subject to the extension authorities of the Parties.

- A. Time limits for the remainder of the grievance procedures in this Article may be extended by mutual consent of the Parties.
- B. The Parties agree to respond to the grievance within the time frames allowed. However, if the Parties are unable to respond within the time frames, the reason for the delay will be stated in writing, and a mutually agreed upon extension of the time limits will be granted.
- C. When information is requested from a party which is needed to process a grievance or determine if a grievance exists, the party will supply a response within fifteen (15) days and the time limits will be extended equal to the amount of time required to receive the information.
- D. Failure by the grievant to meet time limits or to request and receive an extension of time, shall automatically cancel the grievance, unless mitigating circumstances prevail.
- E. Failure of the party against which a grievance was filed to comply with time limits will allow the grieving party to advance the grievance as provided below.

7.8 PROCEDURES: The following procedures are established for the resolution of grievances:

- A. Employee Grievances: An employee requesting representation by the Union will complete and submit a written request to the Union President with a copy to the Agency (usually his/her/their immediate supervisor) and the Agency designee.
- B. The employee or the Union will electronically file a Step One written grievance with the immediate supervisor or other management official who initiated the action which resulted in the grievance within twenty-one (21) calendar days after receipt of the notice of action, occurrence of the incident or knowledge of the incident (whichever occurs first).
- C. The grievance must contain, but is not limited to, the following information:
  - 1. The name of the grievant;
  - 2. Specific nature of the grievance;
  - 3. The law, rule, regulation, policy, procedure, or contract article, the Agency allegedly violated;



4. A copy of documents related to the grievance;
5. Dates and times of any prior attempt to resolve the issue, if applicable;
6. Details of the violation (who, what, when, where, why, and how);
7. The specific relief / remedy requested; and
8. The name of the grievant's Union's representative, if any.

A copy the grievance must be provided to the Union representative or designee and Agency representative with the filing of the grievance. If the grievance is filed at a higher level than appropriate, the receiving office will return the grievance to the employee with instructions as to the level at which it should be filed. The employee must then re-file the grievance within fifteen (15) calendar days from notice of error. To protect the rights of individuals and the integrity of the grievance process, individual grievance issues are to remain strictly confidential between the parties involved.

Within fifteen (15) days of receipt of a properly filed written grievance, the supervisor or other management official will review the matter being grieved and will schedule and hold a meeting with the grievant to discuss the issues. A written response granting or denying the remedy requested will be issued within fifteen (15) days of the meeting.

If the supervisor in this Step One process is the State Director and the grievant is dissatisfied with the response, then the grievance process ends at Step One. The Union is free to file for arbitration in accordance with Article 8 once they have received the decision.

D. If the grievant or the Union is not satisfied with the Step One response from the supervisor or other management official, they may electronically send the grievance to the State Director or his/her/their designee within fifteen (15) days after the decision was rendered. This submission to the State Director must also be in writing, include a copy of the original grievance, an explanation why the decision in Step One is unacceptable and cite any remaining requested relief. Upon request of the grievant and/or Union, the State Director or designee shall meet with the employee and/or the representative within fifteen (15) days of receipt of the grievance. If the issue is not resolved at the meeting, a final decision will be issued in writing within fifteen (15) days of the meeting. If the grievant is dissatisfied with the reply in Step Two, this ends the grievance process.

E. Agency and Union Grievances: If the Agency or the Union files a grievance, it will do so by electronically filing the grievance in writing directly with the other party for resolution within fifteen (15) days of the date that the Agency or the Union became aware or should have become aware of the act or occurrence or anytime if the act or occurrence is of a continuing nature. The submission of Union grievances will be through the State Director. The submission of Agency grievances will be through the Union President.

The grievance must contain, but is not limited to, the following information:

1. Specific nature of the grievance
2. The law, rule, regulation, policy, procedure, or contract article, the Agency allegedly violated;
3. A copy of documents related to the grievance;
4. Dates and times of any prior attempt to resolve the issue, if applicable;
5. Details of the violation (who, what, when, where, why, and how);
6. The specific relief / remedy requested;
7. The name of the Union's representative;
8. The signature of the representative

The Parties shall meet within fifteen (15) days of receipt of the grievance in an attempt to resolve the grievance. If the matter is not resolved at this meeting, a written decision will be issued to the grieving party within fifteen (15) days of the close of the meeting.

7.9 ALTERNATIVE DISPUTE RESOLUTION: If both parties agree, the matter may be referred to an Alternative Dispute Resolution procedure, as outlined in Article 23, Alternative Dispute Resolution of this Agreement for possible resolution. The terms and timeframes for alternative resolution will be jointly determined at the time the matter is referred.

## **ARTICLE 8 – ARBITRATION**

### **8.1 RIGHT TO ARBITRATION AND SCOPE:**

- A. A grievance that remains unresolved or unsatisfactory to either party after being processed under Article 7, “Grievance Procedure” of this Agreement may be referred to arbitration as provided for in this Article. A request for arbitration can be made only by the Union or the Agency and will be in writing to Federal Mediation and Conciliation Service (FMCS) with a courtesy copy to the opposing party. Such requests shall be made within twenty (20) days after receipt of the final written grievance decision issued or when a decision was due.
- B. The Parties agree that the issue(s) to be arbitrated shall be no broader in scope than the issue(s) presented during the grievance procedure.

### **8.2 SELECTING AN ARBITRATOR:**

- A. Within seven (7) days of the request for arbitration, the party invoking arbitration will request FMCS to furnish the Parties a list of five (5) impartial persons qualified to act as arbitrators who live in the State of Colorado. The party invoking arbitration will pay for the list of arbitrators. Within seven (7) days after the receipt of the list, the party requesting arbitration will coordinate the selection of an arbitrator.
- B. If the Parties cannot mutually agree upon one of the listed arbitrators, they will each strike one arbitrator’s name from the list of five (5) and then repeat the procedure until one person remains who will be the duly selected arbitrator. The following procedure will be used: if the date of the transmittal letter from FMCS is an odd number, the Union will make the first strike. If the date of the transmittal letter is an even number, the Agency will make the first strike.
- C. If either party refuses to participate in the selection of an arbitrator, the other party may then select any person from the FMCS list to be the duly selected arbitrator.
- D. The Parties will strive for a joint submission of the issue(s) for arbitration. If this fails, each party will provide a separate submission and the arbitrator will determine the issue(s) to be heard.

**8.3 FEES AND EXPENSES:** The fees and expenses of the arbitrator and other necessary expenses shall be shared equally by both Parties. If either party desires its own copy of a transcript of an arbitration hearing, the party is solely responsible for paying for its own copy of the transcript.

#### 8.4 HEARING:

- A. The arbitration hearing shall be held at an Agency facility normally during the regular work hours of the basic workweek. The Agency and the Union agree that only those parties necessary and relevant to the hearing will participate in the hearing, including witnesses. The arbitrator has the final authority to determine witnesses. Employees of the Agency and otherwise in a duty status shall be excused from duty to participate in the arbitration proceedings without loss of pay or charge to leave. Union representatives involved with the arbitration will be authorized for official time.
  
- B. The arbitrator's decision will be binding on both Parties. However, either party may file exceptions to an arbitrator's award with the Federal Labor Relations Authority (FLRA) under regulations prescribed by the Authority.
  
- C. Both Parties must mutually agree to any procedure other than a full arbitration hearing.

## **ARTICLE 9 – UNION REPRESENTATION AND OFFICIAL TIME**

9.1 **GENERAL:** Official time will be determined on a case-by-case basis for representational activities pursuant to the terms and conditions of this Agreement, and 5 U.S.C., Chapter 71. The Agency will recognize up to four (4) Union officials to be designated (appointed and/or elected) by the Union. The designated Union officials will be authorized an amount of official time that is reasonable, necessary, and in the public interest. In accordance with the U.S.C., such official time does not extend to such activities as solicitation of membership, collection of dues, campaigning for officers, or other matters pertaining to the internal business of the Union.

### **9.2 REQUESTING OFFICIAL TIME:**

- A. The Union official will request official time in advance from his/her/their first line supervisor or designee. The request will be via email with a copy to the Associate Director. The request will include the approximate amount of time needed and a purpose for the requested official time. The Union official will record official time in the Agency's automated time and attendance system (currently WebTA) by using the appropriate transaction codes (currently Program Code Rural Development Other (RD00) and Activity Code HR (307) or other required codes).
- B. The Office of Personnel Management (OPM) requires that all Departments with bargaining unit employees report the amount of official time hours used to perform representation functions. Union representatives need to report all of the official time hours used, regardless of whether the official time used is statutory or contractual. Official time usage will be recorded using the following WebTA transaction codes (TC) as follows:
  1. Term Negotiations TC 35 – Time used by Union representatives to prepare for and negotiate a basic collective bargaining agreement (CBA) or its successor (includes time spent negotiating a term CBA or ground rules for such negotiations, mediation, impasse proceedings, negotiability proceedings, and to prepare for such representation activities).
  2. Mid-Term Negotiations TC 36 – Time used to bargain over issues raised during the life of a term agreement. This includes bargaining over procedures and appropriate arrangements (impact and implementation); including time spent negotiating during the term of a CBA because of a reopener, demand related to a subject not covered by the CBA, pending change, etc., mediation, impasse proceedings, negotiability proceedings, and to prepare for such representational activities.
  3. General Labor – Management Relations TC 37 – Time used for activities not included in term negotiations, mid-term negotiations or dispute resolution categories. Examples of activities include meetings between labor and management officials to discuss general conditions of employment (not bargaining), labor-management committee meetings, labor relations training

for Union representatives, and Union participation in formal discussions and investigative interviews, and to prepare for such representational activities.

4. Dispute Resolution TC 38 – Time used to process grievances up to and including arbitration and appeals of bargaining unit employees before various third parties, such as the Merit Systems Protection Board, Federal Labor Relations Authority, and Equal Employment Opportunity Commission (and related appellant processes and to prepare for such representational activities).

9.3 INTERNAL UNION BUSINESS: Internal Union business, such as attending Union meetings and posting or distributing Union literature, will be conducted during the lunch period, or non-duty hours of the employees involved. Official publications of the Union may be distributed on Agency property by Union representatives during the non-duty time of the Union representatives who are distributing, and of the employees receiving the materials; distribution will not disrupt operations. All such materials will be properly identified as official Union issuances.

9.4 TRAINING: Official time will be granted up to twenty-four (24) hours to Union officers or designated representatives for the purpose of attending AFGE-sponsored training sessions in employee-management relations in any one calendar year. No more than three (3) individuals can attend in any calendar year.

- A. Training sessions will be for the purpose of orienting and briefing officers or representatives on matters concerning 5 U.S.C., Chapter 71 and of mutual concern to the Employer and the Union.
- B. Employees who are authorized under this Article to attend such training programs will obtain prior approval of the Employer. Requests must be submitted by the Union President in writing as far in advance as possible and must be supported by a statement of the purpose of the time and the content of the program or meeting to be attended.

## **ARTICLE 10 – UNION SPACE AND GOVERNMENT EQUIPMENT**

10.1 CONTENTS OF LITERATURE: Any document produced and disseminated by the Union must not violate any law, regulation, security of the office, or provisions of this Agreement. Union statements will not include defamatory or derogatory remarks that undermine the authority of the Agency and its officials when the remarks have no reasonable nexus to legitimate representational issues. Any complaint concerning the Union's compliance with these requirements may be made the subject of a grievance in the negotiated grievance procedure.

10.2 BULLETIN BOARD SPACE: At each facility, the Union shall be provided bulletin board space to post a current list (quarterly) of its Officers and Stewards and their respective contact information. This posting will be compatible in appearance to other items on the bulletin board.

10.3 BARGAINING UNIT LIST: Upon request, the Employer will furnish annually, free of charge to the Union, a list of the names, grades, and organizational locations of all bargaining unit employees.

10.4 When available, the Union may reserve and use the Employer's conference rooms or other suitable space with advance permission of Employer. Advance reservations are subject to cancellation in the event of unforeseen official needs. In the event the Employer's space is not available or it becomes necessary to cancel a reservation, the Employer will attempt to secure for the Union conference facilities of other agencies in the building. The Union shall comply with all building security requirements.

10.5 Union representatives will be allowed use of the Agency telephone and email system for representational activities. The use of the Agency telephone system for the purpose of discussing internal Union matters is prohibited.

## **ARTICLE 11 – DUES WITHHOLDING / REVOCATION**

11.1 **DUES WITHHOLDING**: In order to initiate Union dues withholding by payroll deduction, a bargaining unit employee must complete a Standard Form (SF) 1187, “Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues” or the successor form if the SF-1187 is replaced. The SF-1187 can be obtained from either the Union or OPM website. The employee must complete the appropriate spaces, sign it, and submit it to the Union. The Union will complete its portion of the form and submit it to Human Resources using the current submission procedures.

11.2 **DUES REVOCATION**: A bargaining unit employee can terminate Union dues withholding at any time after completion of the initial year.

11.3 **PROCESS**: To cancel the dues allotment, the employee must complete a SF-1188, “Cancellation of Payroll Deductions for Labor Organization Dues” or the successor form if the SF-1188 is replaced. The SF-1188 can be obtained from either the Union or OPM website. The employee must complete the form, sign it, and submit it to the Union. The Union will submit it to Human Resources using the current submission procedures. Employees who are uncertain of their anniversary date can contact the Union.



## **ARTICLE 12 – TRAVEL**

### **12.1 GOVERNMENT TRAVEL:**

- A. Travel shall be in accordance with all applicable federal travel regulations, laws, rules, policies, procedures, and practices, as amended.
- B. All travel must be approved in advance by the employee's supervisor.
- C. If available, a Government owned vehicle should be used in lieu of a personally owned vehicle.
- D. A Government travel credit card may be provided to employees through appropriate policy and procedure. Failure to comply with regulations, terms and conditions of the card, or to timely make payments on the amount due, can subject the cardholder to disciplinary action and suspension or cancelation of the Government travel credit card.

## **ARTICLE 13 – MERIT PROMOTION**

13.1 GENERAL: All actions under merit promotion will be taken in accordance with Federal regulations, laws, rules, policies, procedures, and practices including Departmental Regulation – DR 4030-335-002, “Merit Promotion and Internal Placement,” as amended, and this Agreement. Procedures for Colorado bargaining unit reassignments are located in Article 27 “Reassignments”. If the transfer or reassignment of an employee external to RD Colorado results in a change in working conditions, the Agency will notify the Union in accordance with Article 3.7 “Notification of Changes in Working Conditions”.

- A. All vacancies in the bargaining unit which are to be filled competitively under merit promotion will be announced through the current automated system (presently USAJobs).
- B. The Agency has the right to fill a position through reassignment, or transfer of employees external to RD Colorado, or any other exception to competition under merit promotion.
- C. The Agency has the sole discretion to decide whether to re-advertise any vacancy for which a selection was not made.
- D. The Agency will provide the Union an e-mail alerting them of new hires, transfers, or reassignments of employees that are external to RD Colorado. The email will be sent as soon as practicable prior to the bargaining unit employee’s start date.

## **ARTICLE 14 – HOURS OF WORK AND WORK SCHEDULES**

14.1 **GENERAL**: The Agency shall conduct a policy of hours of work and work schedules in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended.

### 14.2 **HOURS OF WORK AND CORE HOURS**:

Working Hours: 6:00 a.m. - 6:00 p.m.

Core Hours: 9:00 a.m. - 2:30 p.m.

Office Hours: 8:00 a.m. - 4:30 p.m.

Lunch: Normally 30 minutes between 11:00 a.m. and 2:00 p.m. (see Article 15, "Lunch and Break Periods" of this Agreement)

14.3 **MAXIFLEX SCHEDULE**: All employees are considered to be on a maxiflex schedule. Arrival time, departure time, number of hours worked per day and number of days worked per pay period all may vary so long as the biweekly requirement of eighty (80) hours is met. Employees will record their arrival and departure times to the nearest 15- minute increment using the Agency's automated time and attendance system, currently WebTA.

- A. Employees select a starting time each day, e.g., 8:00 a.m., so the supervisor knows generally when to expect the employee. However, the employee may change the starting times daily within the established flexible hours of 6:00 a.m. to 9:00 a.m.
- B. Supervisors will require that an employee provide advance notice, if possible, when the employee will not be arriving within thirty (30) minutes of his/her/their anticipated arrival time.
- C. Employees may not work more than twelve (12) hours in a day, exclusive of their lunch period. This includes regular tour of duty, preapproved overtime, compensatory time and credit hours.
- D. The employee's scheduled number of hours for that day must be completed by 6:00 p.m. unless the tour of duty has been changed by the supervisor.
- E. Full-time employees must schedule a minimum of five and one half (5 ½) hours and a maximum of ten (10) hours, exclusive of lunch period, for each scheduled workday.
- F. Employees will be allowed to alter their maxiflex schedule upon supervisor approval once per quarter (Jan-Mar, Apr-Jun, etc...); additional times may be allowed for unforeseen emergency/life altering situations. However, employees may be required to temporarily alter their schedules so that supervisors can ensure adequate coverage.

14.4 CHANGE IN SCHEDULE: Employees may request a change in the established tour of duty once a quarter. Additional requests can be made if a significant change in life/family circumstance arises. Employees will submit their request to their supervisor via hard copy or email using Form AD-2001, Designation of Tour of Duty, or other current method. All requests for changes in tour of duty are subject to supervisory preapproval.

14.5 TRAVEL AND TRAINING: If necessary, the Agency may change an employee's schedule when the employee is traveling, attending training, or participating in jury duty. Employees who are in training status, whether on the job training or classroom training, will need to adjust their normal schedules to be able to participate fully in the training.

- A. When an employee travels away from the permanent duty station, the employee may remain on his/her/their work schedule, provided the employee's regular day off (RDO) does not occur during the period of travel.
- B. An employee may remain on his/her/their work schedule while in a training status provided his/her/their RDO does not occur during the period of training.

14.6 RESOLVING CONFLICTS: When employees have work schedule conflicts related to office coverage, the first attempt to resolve conflicts will be among themselves. If they are not able to resolve the conflicts, then the supervisor(s) will make the final decision.

## **ARTICLE 15 – LUNCH AND BREAK PERIODS**

15.1 **GENERAL**: The Agency shall conduct lunch and break periods in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended.

15.2 **LUNCH**: The Parties recognize that lunch periods are non-paid time. The Agency shall approve all employees' scheduled lunch periods.

- A. Employees shall have the option of scheduling thirty (30) minutes, forty-five (45) minutes, or sixty (60) minutes for lunch. On occasion, with supervisory approval, employees on a maxiflex work schedule may expand their lunch period within the established lunch band.
- B. Any changes to the lunch schedule which exceed the normally scheduled lunch period must have prior supervisory approval. The employee must have sufficient leave to cover the request or the employee may request to extend his/her/their workday not to exceed 6:00 PM.
- C. The Agency recognizes the lunch period band shall be from 11:00 a.m. until 2:00 p.m. each workday.
- D. Absent prior supervisory approval, employees may not leave before 11:00 a.m. and must return from lunch by 2:00 p.m.
- E. Employees must take a lunch break if they work six (6) or more hours.
- F. If you have the rare extended day where you work twelve (12) or more hours, employees must take a non-paid dinner break.
- G. The employee may request annual leave, compensatory time, credit hours, or leave without pay (LWOP), or the Agency may charge the employee with being absent without official leave (AWOL) for any misuse or unauthorized extension of an employee's lunch period.

15.3 **BREAKS**: The Parties recognize that breaks are paid duty time.

- A. The Agency shall recognize one fifteen (15) minute break for each four (4) full hours worked. In a typical work day, one break will be taken before lunch and one break will be taken after lunch.
- B. An employee's break may not exceed fifteen (15) minutes in duration, nor may an employee divide his/her/their fifteen (15) minute breaks into breaks of smaller increments.
- C. The purpose of breaks is to permit the employee a break from a continuous work effort. Therefore, the Agency shall not permit an employee to use breaks in conjunction with the employee's lunch period, or as a means of a late arrival or

early departure.

- D. If while on break, an employee remains in his/her/their work area, he or she shall make themselves available for work should the need occur. The break may resume for the remainder of the time left once the employee completes the assigned work.
- E. The employee may request annual leave, compensatory time, credit hours, or leave without pay (LWOP), or the Agency may charge the employee with being absent without official leave (AWOL) for any misuse or extension of an employee's break period.

## **ARTICLE 16- LEAVE**

16.1 GENERAL: The Agency shall administer leave in accordance with applicable laws, rules, regulations, policies, procedures, practices, including Rural Development - RD Instruction 2066-A, "Rural Development Leave Program", as amended.

The Employer and Union have a common interest to create a family friendly workplace which enables the Agency to meet its mission needs while allowing employees flexibility to meet both work and family needs.

16.2 SCHEDULING LEAVE AROUND HOLIDAYS: Employees will work together to schedule leave around holidays so there is adequate office coverage. If there are disputes, the employees' supervisors will make the final decision.

## **ARTICLE 17 – TELEWORK**

17.1 GENERAL: Telework will be administered in accordance with federal regulations, laws, rules, policies, procedures, and practices including USDA Department Regulation DR - 4080-811-002, Telework Program, as amended, and this Agreement.

17.2 OFFICE COVERAGE: The teleworking employee will coordinate with his/her/their supervisor to ensure that there is adequate office coverage in his/her/their field office or program coverage in the State Office.

17.3 PROTECTING INFORMATION AND EQUIPMENT: Employees are responsible for safekeeping Government materials, documents, and equipment in accordance with Departmental Regulation - DR 4080-811-002 along with other laws, rules, regulations, policies, procedures, and practices including RD Instruction 2033-A, Management of Rural Development Records, as amended.



## **ARTICLE 18 – INCLEMENT WEATHER**

18.1 **GENERAL**: When current and forecasted hazardous weather and road conditions exist at RD Colorado offices, a timely decision will be made for a delayed arrival, early dismissal or office closure. A delayed start or full-day office closure decision should be made early enough in the morning to give commuting employees notice prior to them getting on the road. The supervisor or designee is responsible for promptly notifying each of the RD employees at the affected local office. Notification will be by text message or phone call. Office employees should provide the local RD representative with their personal contact information. Only designated RD employees can communicate to other RD employees the operating status of the RD office. State Office employees should call the inclement weather hotline (currently 720-544-2995) to determine if there is a delayed start or full-day office closure. The inclement weather hotline will be updated by 5:00 a.m. if practicable.

As safety allows, an employee must request approval from his/her/their supervisor for any changes to his/her/their scheduled tour of duty or work location.

18.2 **UNSCHEDULED LEAVE**: Employees are reminded that they have the option to contact their supervisors and request unscheduled leave to remain at home or leave the office early if there is inclement weather and the office is open. Any reference here to the use of leave includes the use of annual leave, comp time/comp travel, credit hours, time off awards or any other type of paid time available to the employee.

If an employee arrives later than the delayed arrival time due to weather, he or she may flex his/her/their schedule or use unscheduled leave to make up the difference. For example, there is a two-hour delay. The employee's normal tour of duty is 8:00 a.m. - 4:30 p.m. The employee arrives at 11:00 a.m. instead of the delayed start of 10:00 a.m. They can choose to work until 5:30 p.m. or use 1 hour of unscheduled leave.

18.3 **TELEWORK**: When current and forecasted hazardous weather and road conditions are forecast or currently exist at local offices, the Parties recommend that employees with approved telework agreements be telework-ready and take their laptops and sufficient work home to provide themselves with the most options during inclement weather.

- A. An employee must have a telework agreement (regular or ad hoc) in place to be permitted to telework during inclement weather.
- B. If inclement weather is forecast, employees with pre-approved telework agreements and who are telework-ready can request approval for unscheduled telework to avoid potentially hazardous road conditions or heavy traffic.
- C. When there is a decision for a delayed arrival, early dismissal or office closure, employees already scheduled to telework that day are expected to work their

normal tour of duty at their telework sites. This applies to regular or unscheduled telework. No hazardous weather administrative leave will be granted for pre-scheduled telework. All other employees working at the local office/duty station will be granted administrative leave.

- D. Teleworking during an inclement weather day will not preclude an employee from additional telework during the week if that employee has a regularly scheduled weekly telework day. Should a subsequent telework day within an inclement weather affected pay period need to be cancelled the employee will be notified in advance of the routine telework day.
- E. If the employee's duty station is closed, the employee is teleworking and his/her/their alternative/telework site is also impacted due to adverse weather and/or power communication outages, the employee can be granted hazardous weather administrative leave in an amount sufficient to complete his/her/their scheduled day.
- F. If an employee is working at the duty station when an early dismissal is decided, the employee may, after approval from his/her/their supervisor, choose to leave earlier than the dismissal time and make up the time difference teleworking up to 6:00 p.m. A change of work schedule form is not required. If an employee cannot or chooses not to make up the time difference, he or she must take leave for the entire time off. For example, a 2-hour early dismissal is in effect. The employee's normal tour of duty ends at 4:00 p.m. making the early dismissal time 2:00 p.m. The employee decides to leave at 12:00 p.m. He or she teleworks from 2:00 p.m. - 4:00 p.m. to make up the difference and record 4:00 p.m. - 6:00 p.m. as "Weather and Safety Leave" on their time & attendance.

18.4 LEAVE SITUATIONS: An employee with pre-approved leave prior to the inclement weather will remain on leave during delayed arrival, early dismissal or office closure situations. He or she will not be credited for the hazardous weather time.

- A. If an employee is working at the duty station prior to an early dismissal decision or when an early dismissal is decided, the employee may request unscheduled leave to depart earlier than the dismissal time using unscheduled leave. The employee will be charged leave for the entire time and not be credited with the hazardous weather administrative leave.
- B. If an employee planned to use sick leave on a day of a late arrival, early dismissal or office closure decision and the legal basis for that sick leave has been eliminated, the sick leave must be cancelled. For example, an employee is scheduled to use sick leave for a medical appointment and that medical appointment is cancelled. The employee may not remain on sick leave.
- C. If an employee is not telework-ready during times of inclement weather, the office is open and the employee chooses not to come to the office, the employee must contact his/her/their supervisor and request unscheduled leave.

D. Use Code 66 – “Weather and Safety Leave” or other required code in the automated time and attendance system (currently WebTA) to document the administrative leave for delayed arrival, office closure or early dismissal.

## **ARTICLE 19 – PERFORMANCE MANAGEMENT**

19.1 GENERAL: The Agency agrees to administer performance management in accordance with Federal laws, rules, policies, procedures, and practices, in accordance with 5 U.S.C. Chapter 43 and 5 C.F.R. Part 430. Standards will be fair, reasonable and attainable.

## **ARTICLE 20 – POSITION DESCRIPTIONS AND CLASSIFICATION**

20.1 **GENERAL**: The Agency agrees to maintain position classification in accordance with all applicable regulations, laws, rules, policies, procedures, and practices, as amended. The Agency will provide a copy of the position description (hard copy or electronic) to the employee. Position Descriptions are located in each employee's electronic Official Personnel File (eOPF). Once known, the Agency will notify the Union of any changes made to the employee's position description.

20.2 **INACCURACIES**: If an employee believes that his/her/their position description is inaccurate, he or she should advise the supervisor of the concern and provide the supervisor with sufficient information in writing to allow the supervisor to look into the matter. If the supervisor believes the classification should be reevaluated as a result of duties that have significantly and naturally evolved since the position was last classified or the position was initially classified, the matter will be elevated to Human Resources who will provide a response to the employee and supervisor.

20.3 **DISPUTES**: If an employee believes that his/her/their position is incorrectly classified as to title, pay plan, series and/or grade and the supervisor disagrees, he or she has two (2) options to pursue a classification appeal with:

- A. USDA Office of Human Resources Management or, desk audit.
- B. Office of Personnel Management .

## **ARTICLE 21 – EMPLOYEE AWARDS AND RECOGNITION**

21.1 GENERAL: The Agency agrees to administer employee awards and recognition in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended. Within the limits set by policy, budgetary and other legitimate Management considerations, the Agency will follow Departmental Regulation - DR 4040-451-1, “USDA Employee Awards and Recognition Program”.

The Agency may use an appropriate awards and recognition program in which both employees and managers take an active part to promote team building and to motivate, reward and recognize employees for their accomplishments thereby increasing the effectiveness of the workforce, raising Agency productivity, and improving the working environment.

## **ARTICLE 22 – PREMIUM PAY AND CREDIT HOURS**

22.1 **GENERAL**: Premium pay and credit hours will be compensated in accordance with applicable laws, rules, regulations, policies, and practices, as amended.

### **22.2 OVERTIME:**

- A. Overtime pay is pay for hours of work officially ordered and approved in advance in excess of the employee's basic work requirement.
- B. The Agency will give an employee as much advance notice as practicable in making overtime assignments. In certain situations, operational needs may prevent advance notice.
- C. Overtime will be distributed consistent with workload requirements and resource availability. The Agency may order or approve overtime by special projects or work assignments according to expertise of the employee. Overtime will be distributed as equitably as possible.
- D. When there are more than sufficient qualified candidates expressing an interest in working overtime, the Agency will fill its needs from the candidates based on seniority using the leave service computation date.
- E. If the Agency is unable to fill its needs through qualified candidates, it may assign the work to the qualified employees based on reverse seniority using the leave service computation date.
- F. The Agency will give reasonable consideration to an employee's request to be released from overtime due to personal hardship.

### **22.3 COMPENSATORY TIME IN LIEU OF OVERTIME:**

- A. Compensatory time earned by the employee is accrued for an equal amount of time spent in overtime work.
- B. FLSA (nonexempt) employees will be allowed to earn and use compensatory time rather than paid overtime provided that compensatory time must be at the request of the employee and cannot be mandatory.
- C. If the employee desires to work compensatory time instead of overtime, then the employee must indicate the desire/request to work compensatory time in the remarks section of the employee's request in the Agency's automated time and attendance system before the Agency approves the overtime work assignment.
- D. Once the Agency approves the overtime, the supervisor/designee must approve

the compensatory time before the employee works the additional hours.

- E. Employees must use such compensatory time before using any credit hours or annual leave (except use or lose annual leave). The compensatory time must be used by the end of the 26th pay period following the pay period in which the compensatory time was earned. If the employee does not use the compensatory time by its expiration date, the Agency shall pay the employee the remaining time at the overtime rate of pay applicable at the time the employee worked the compensatory time.

#### 22.4 COMPENSATORY TIME FOR TRAVEL:

- A. The employee will submit the request for compensatory time for travel through the Agency's automated time and attendance system. The employee will include in the remarks section the date and time of departure and return, the purpose of travel, the location of departure and destination, waiting times, and unusual delays.
- B. An employee may not receive payment under any circumstances for any unused compensatory time for travel. Compensatory time for travel not used within twenty-six (26) pay periods after it was earned will be forfeited.

#### 22.5 CREDIT HOURS:

- A. Earning credit hours is not intended to be an ongoing, regular recurrence. If the employee regularly extends his/her/their normal workday, then the supervisor may require a change of the employee's tour of duty to be submitted prior to the start of the next pay period.
- B. Credit hours are earned between the hours of 6:00 a.m. and 6:00 p.m. to extend an employee's normally scheduled tour of duty. Credit hours can be earned while on telework. Employees shall not earn credit hours on their non-workdays or on weekends.
- C. With prior approval, credit hours may be earned after 6:00 p.m. only to voluntarily attend night meetings. This time shall be inclusive of the travel time to and from the meeting location as well as the actual meeting attendance if the meeting location is within fifty (50) miles of the employee's official duty station. Otherwise, this time will be coded in the Agency's automated time and attendance system as a combination of travel compensatory time and credit hours.
- D. An employee must have supervisory approval, preferably in advance, before earning credit hours. Approval may be received through verbal or written communication with the supervisor or via the time and attendance reporting system. If the employee cannot receive approval prior to earning credit hours,



the employee must seek approval as soon as practicable. Any request or notification to earn any amount of credit hours will include a brief but specific description to the supervisor of the anticipated accomplishment(s) the additional time will produce or what was completed in the credit hours that were not requested in advance. This brief description will be entered into the "Remarks" section of the request via the time and attendance reporting system.

## **ARTICLE 23 – ALTERNATIVE DISPUTE RESOLUTION**

23.1 **GENERAL**: The Agency shall conduct alternative dispute resolution (ADR) in accordance with Federal laws, rules, policies, procedures, and practices, including Departmental Regulation - DR 4710-001, “Alternative Dispute Resolution”, as amended, and this Agreement.

ADR is used to promote principles and practices that will contribute to improved working relationships and is designed to work towards preventing and resolving workplace and program conflicts within USDA. It is intended to resolve disputes quickly and informally.

23.2 **POLICY**: Bargaining unit employees/Union may opt to use the ADR process for employee grievances at any stage of the grievance process prior to arbitration. The Union/Agency may opt to use the ADR process after the decision is issued for Union/Agency grievances or if no decision is issued. The ADR program may only be utilized once per bargaining unit employee grievance. This process does not take away statutory rights.

- A. ADR is voluntary, and participation is open to all aggrieved parties (employees, Union, and Agency), who agree in writing to participate. Since ADR is voluntary, the employee may terminate participation at any time.
- B. ADR is confidential. The parties will be advised that the contents of the mediation discussion are confidential. All notes will be destroyed at the close of mediation. Each party will have a copy of the ADR agreement. The original agreement will be maintained at the National RD Civil Rights office.
- C. All agreements signed by the parties are binding.
- D. Any issue may be considered for mediation.

23.3 **PROCEDURES**: Once the aggrieved employee determines they want to use the ADR process, they will contact the Colorado Associate Director (AD), RD Business Center, Human Resources Manager (HRM) and/or the Union official who will then contact an ADR program official. The designated Agency ADR program officials or Union official will inform the AD, HRM and all other parties of an employee’s desire to utilize the ADR process. Within a mutually agreed upon time frame, the same designated Agency ADR program official will set up the initial mediation session using available resources such as the Federal Mediation and Conciliation Service. If needed, a second mediation session will be scheduled. If the issue is resolved, a copy of the agreement will be forwarded to the HRM and the ADR process will stop. If the issue is not resolved, the grievance process may be utilized.

23.4 **PAYMENT**: If funding cannot be obtained by the National Office, the cost of mediation will be paid equally by the Union and the Agency.

## **ARTICLE 24 – REDUCTION-IN-FORCE AND TRANSFER OF FUNCTION**

24.1 **GENERAL**: The Agency shall conduct reduction-in-force (RIF) and/or transfer-of-function (TOF) in accordance with applicable laws, rules, regulations, policies, procedures, and practices, including 5 C.F.R. 351 as amended. Office of Personnel Management, Department and Agency regulations covering RIF and/or TOF procedures for employees in the bargaining unit will be utilized by the Agency and the Union in carrying out their labor-management responsibilities throughout the RIF and/or TOF process.

24.2 **NOTIFICATION**: Prior to the implementation of any decision concerning a RIF and/or TOF, the Agency will notify the Union of the impending RIF and/or TOF action, providing time for the Union to review the Agency's proposal, and time to make a written response.

Following notification of a RIF and/or TOF, the Agency shall furnish to the Union, upon request, any relevant and available documents or information concerning RIF and/or TOF, subject to any Privacy Act limitations. The Parties acknowledge that such documents and information include, but are not limited to, all those which are a matter of required official record, but do not include internal Management communications.

24.3 **OUTPLACEMENT SERVICES**: The Agency will utilize all relevant outplacement programs such as Career Transition Assistance Program (CTAP) and Interagency Career Transition Assistance Program (ICTAP).

## **ARTICLE 25 – FURLoughS**

25.1 **GENERAL:** The Agency shall implement furloughs in accordance with the applicable governing law (i.e., statutes, rules and/or regulations, and directives and guidelines issued by the Office of Management & Budget (OMB) and the Office of Personnel Management (OPM)) current at the time of the furlough.

This Article addresses: the policy and procedures for implementing “shutdown furloughs”, sometimes called “emergency furloughs”, but herein called “emergency/shutdown furloughs” and “save money” furloughs; and the adverse effects of such furloughs. By agreeing to this Article, the Union does not waive any individual employee’s rights.

- A. Circumstances beyond the control of the Agency may compel the Agency to furlough employees.
- B. The Agency has complete authority and responsibility with respect to all decisions about furloughing employees, including but not limited to, the specific employees furloughed, the days, dates, and times of the furlough, and the duration of the furlough.
- C. Upon receiving official notice of a potential furlough, the Agency shall notify the Union as soon as practical of the following:
  - 1. Whether the furlough is an emergency/shutdown furlough or is a save money furlough; and
  - 2. The expected beginning date of the furlough; and
  - 3. The expected duration of the furlough.
- D. For every furlough, the Agency will compile a list of excepted employees (i.e., those employees not subject to the furlough). When that list is finalized and approved, the Agency will provide the Union with a copy at or around the same time as the Agency provides that information to the excepted employees. The Agency shall also provide the Union a copy of any new list of excepted employees if, thereafter, it re-designates employees as excepted and/or recalls them to work.
- E. During a furlough, and unless contrary to law, leave status will be handled in accordance with OMB and OPM guidance in effect during the furlough.
- F. Based on the length of the furlough, the Agency shall adjust performance plan standards if and as appropriate.

- G. The Agency shall not use furloughs as punishment or discipline in lieu of other means of addressing behavior, conduct, or performance.
- H. The running of any time period within which the Agency or Union may or must act pursuant to the terms of this Agreement shall be suspended for the duration of any total suspension of normal Agency business operations.
- I. Employees may accept outside employment while on furlough, provided that such outside employment does not pose a conflict of interest with their official USDA Rural Development duties. An employee's outside employment shall not prevent an employee from being recalled to work during a furlough. Employees wishing to engage in outside employment should refer to the USDA Office of Ethics website at [www.ethics.usda.gov](http://www.ethics.usda.gov).
- J. The Agency shall keep employees apprised of developments affecting the furlough by means of the OPM website and other publicly accessible media.

25.2 **SAVE MONEY FURLOUGHS**: If the Agency must furlough employees as a means of addressing a budget shortfall, the Agency may solicit volunteers to be placed in extended leave without pay (LWOP) status; or if the Agency must furlough employees as a means of saving or reducing expenditures, the Agency shall:

- 1. Solicit volunteers to work reduced hours in conjunction with LWOP; and
  - 2. Allow affected employees to choose which workdays shall serve as their furlough days, with advanced approval of a supervisor and in accordance with Agency leave request requirements.
- A. The Agency reserves the right to deny a request for LWOP and will state the justification for a denial if asked to do so.
  - B. Should an insufficient number of employees in a work unit volunteer for LWOP and the Agency must furlough employees in that work unit, the Agency shall furlough employees by reverse seniority, where the least senior employees are the first employees furloughed. In determining an employee's seniority, the Agency shall use the service computation date for leave.

25.3 **EMERGENCY/SHUTDOWN FURLOUGHS**: As soon as an emergency/shutdown furlough is announced, the Agency shall, to the best of its ability, provide all non-excepted employees with all relevant and necessary instructions and information as soon as it is available to the Agency.

- A. Unless the Agency directs them to do otherwise, all non-excepted employees shall report to work at the beginning of the first regularly scheduled business day during the emergency/shutdown furlough for the lesser of either a period of four

(4) hours, or as long as is required for them to complete the tasks necessary in order to implement the suspension of normal Agency business operations in an orderly manner.

- B. During the period of an emergency/shutdown furlough, an employee shall be regarded as in furlough status during the employee's normal tour of duty and work schedule, including compressed work schedules, alternative work schedules, part-time work schedules and associated off days. To the best of the Agency's ability, the Agency will refer to furlough periods in terms of hours rather than days.
- C. During the period when the Agency's normal business operations are suspended, any excepted employee shall work only as necessary during that employee's normal tour of duty and work schedule, including compressed work schedule, alternative work schedules, part-time work schedule and associated off days, as his/her/their supervisor may require, providing the supervisor gives the employee reasonable notice of those hours in advance. The excepted employee has the ability to earn credit hours, overtime, etc. as required and approved by his/her/their supervisor.
- D. If the furlough ends during a period for which an employee previously scheduled approved leave, the employee may take that leave until his/her/their previously scheduled return to duty date.
- E. Employees will be paid for furlough time only as authorized by Congress (e.g., "Government Employee Fair Treatment Act of 2019", amending 31 U.S.C. 1341).

## **ARTICLE 26 – DISCIPLINARY AND ADVERSE ACTIONS**

26.1 **GENERAL**: The Agency shall conduct disciplinary and adverse actions in accordance with applicable laws, rules, regulations, policies, procedures, and practices, as amended.

26.2 **CAUSE**: Adverse and disciplinary actions against all employees must be for just cause, fair, equitable, and consistent with applicable laws and regulations.

- A. **ADVERSE ACTION**: A personnel action which affects an employee through removal, suspension, reduction-in-grade or pay, or furlough without pay for thirty (30) days or less. Such actions may be appealable to the Merit System Protection Board (MSPB) or through the negotiated grievance procedure (depending on scope) at the employee's choice, but not both (5 U.S.C. Chapter 71 § 7121 (d)). It does not include removal of a probationary employee; a suspension or removal for national security reasons; a reduction-in-grade or a removal for unacceptable performance; or an action by the Special Counsel of the MSPB.
- B. **DISCIPLINARY ACTIONS**: Management-initiated actions designed to correct employee behavior. Disciplinary actions may include written reprimands and suspensions of fourteen (14) days or less. Disciplinary actions are less severe than adverse actions and are grievable through the negotiated grievance procedure to arbitration.

26.3 **REPRESENTATION**: A bargaining unit employee receiving a notice of proposed disciplinary or adverse action is entitled to self-representation, to Union representation, or to other appropriate representation. When the employee chooses to be represented by the Union, the representative will be entitled to advance notice and to be present at any meeting between the employee and Employer to discuss the disciplinary or adverse action taken against the employee.

26.4 **ADVICE OF RIGHT TO REPRESENTATION**: The proposed disciplinary or adverse action letter will advise the employee of his/her/their right of representation by the Union.

26.5 **EVIDENCE DISCLOSURE**: The employee or his/her/their representative may request the evidence used in a proposed disciplinary or adverse action. This request will be made through the assigned Employee Relations Specialist.

## **ARTICLE 27 – REASSIGNMENTS**

27.1 **GENERAL:** The Agency shall reassign employees in accordance with applicable laws, rules, regulations, policies, procedures, and practices, as amended. The Agency will provide the Union notice of any employee reassignments.

- A. Whenever any employee submits a written request for a voluntary reassignment, the Agency will consider the request in light of the needs of the Agency. The Agency will not pay relocation expenses that result from employee initiated voluntary reassignments.
- B. Whenever a reassignment results from the Agency solicitation of volunteer(s) (i.e. statement of interest), the Agency will not pay relocation expenses.
- C. Whenever the reassignment is a directed reassignment (is not voluntary and is within the commuting area, i.e. forty-nine (49) miles or less) relocation expenses will not be paid.
- D. Whenever the reassignment is a directed reassignment (is not voluntary and is outside the commuting area, i.e. fifty (50) miles or more) relocation expenses required by regulation will be paid.
- E. With respect to the seating assignment(s) for the recently reassigned employee(s), they will be placed in the vacant cubicle(s) within their respective work area based on reverse seniority.
- F. With respect to the seating assignment(s) in the office(s) losing employees, the Agency agrees to consider any requests received to move within the office. The Agency shall base its approvals for requests to move on business needs and seniority.



## **ARTICLE 28 – CONTRACTING OUT BARGAINING UNIT WORK**

28.1 **NOTIFICATION TO THE UNION**: When the Agency anticipates contracting out work presently being performed by bargaining unit employees and that doing so would result in a reduction-in-force (RIF) or in the demotion of any bargaining unit employee, it will notify the Union at least sixty (60) days in advance or as soon as practicable. The notice will identify in general terms the employees who may be affected. Time frames hereby established may be extended by mutual consent. Following such notice, upon request from the Union, the Agency will meet with the Union to discuss the information contained in the notice.

28.2 **MANAGEMENT DECISIONS**: Any Agency decision to possibly contract out work presently being performed by bargaining unit employees will be made in accordance with current rules, regulations, policies, and procedure as amended.

28.3 **STATEMENT OF WORK**: The Agency will provide the Union with a copy of any Statement of Work which has been developed for the proposed contracting out, and which deals with work currently performed by bargaining unit employees. The Union will be given ten (10) days to comment regarding the Statement of Work. Time frames hereby established may be extended by mutual consent.

28.4 **IMPACT AND IMPLEMENTATION**: The Agency agrees that prior to implementing a decision to contract out, the Union will be given the opportunity to timely negotiate regarding the impact and procedures for implementing such decision. Management and Union officials will meet for no more than five (5) days to resolve any differences and reach agreement. Time frames hereby established may be extended by mutual consent though the Parties agree to expedite the process.

28.5 **ACCESS TO REGULATIONS**: The Agency agrees to provide the Union access to all regulations maintained on-site that are relevant to contracting out.

28.6 **ADVERSE EFFECTS ON BARGAINING UNIT EMPLOYEES**: If bargaining unit employees are adversely affected (RIF or demotion) by the decision to contract out work presently being performed by bargaining unit employees, the Agency will proceed in accordance with Article 24, “Reduction-in-Force and Transfer of Function” of this Agreement.

28.7 **PLACEMENT ASSISTANCE**: The Agency agrees to assist in locating suitable employment for bargaining unit employees who are displaced as a result of contracting out, including: giving consideration for vacant positions for which they are qualified within RD - Colorado in accordance with Agency policies and procedures; and submitting their names to the Career Transition Assistance Plan (CTAP) and the Interagency Career Transition Assistance Plan (ICTAP) programs, as applicable.

## **ARTICLE 29 – CIVIL RIGHTS**

### **Equal Employment Opportunity**

29.1 **GENERAL**: Equal Employment Opportunity (EEO) will be applied in accordance with Federal regulations, laws, rules, policies, procedures, and practices, including RD Instruction 2045-X, Equal Employment Opportunity, as amended, and this Agreement.

29.2 **COMPLAINTS**: An employee must file an EEO complaint using the Agency EEO complaint procedure. EEO complaints are excluded from the negotiated grievance procedure (see Article 7, “Grievance Procedure”, of this Agreement).

29.3 **DUTY STATUS**: Union representatives participating in discussions of informal EEO complaints under this Article will be on official time as outlined in Article 9, “Union Representation and Official Time” of this Agreement.

### **Anti-Harassment Policy**

29.4 **POLICY**: The Employer shall administer an anti-harassment policy in accordance with applicable laws, rules, regulations, policies, procedures, and practices including Rural Development Instruction 2045-LL, Anti-Harassment Policy and Complaint Procedures or successor, and this Agreement.

29.5 **OFF-DUTY CONDUCT**: The Employer will need to establish a nexus between off-duty conduct referenced in RD Instruction 2045-LL Section 1852 (c) and the investigated employee’s position should it seek to take administrative action against an employee for conduct that occurred off-duty. RD Instruction 2045-LL Section 1852 (c) refers to the use of electronic devices or forms of communication to harass, demean, or degrade another: this includes the viewing, downloading, storage, or distribution of pornographic or sexually explicit material on such devices whether in the workplace or not, whether on duty or off duty, and whether or not another employee witnesses it.

29.6 **WEINGARTEN NOTIFICATION**: The assigned Factfinder in the harassment inquiry/investigation process will provide notice of Weingarten rights to any interviewed or questioned employee.

## **ARTICLE 30 – HEALTH AND SAFETY**

30.1 **GENERAL**: The Agency shall promote health and safety in the workplace and for employees in accordance with applicable laws, rules, regulations, policies, procedures, and practices as amended.

The Agency and the Union have a common interest in promoting safe working habits and safe conditions. The Agency has an obligation to provide safe working conditions. It is recognized that each employee has the primary responsibility for his/her/their own safety and as such, is further responsible for promptly bringing to the attention of his/her/their supervisor any unsafe working conditions. The Agency will investigate and if warranted, promptly take appropriate action to correct the unsafe condition.

30.2 **FIRST AID**: Where full health facilities are not available on the premise, the Agency agrees to provide first aid kit(s) and designate a position in each office to maintain the kit(s).

30.3 **GOVERNMENT VEHICLES**: An employee will not be required to operate a Government motor vehicle known to be unsafe as determined by the Agency.

The Agency will authorize the ordering of the following safety equipment for each GSA vehicle:

1. First aid kit and flashlight.
2. Chains or approved traction devices.
3. De-icer and/or scraper.
4. Blankets and flares.

In addition, if individual employees, based upon their travel patterns, feel other devices or items are necessary they may request such items through normal supply channels.

30.4 **INJURY REPORTING**: All on-the-job injuries, whether or not such injuries at the time are considered to be disabling, will be reported immediately to the supervisor.

30.5 **PERSONAL SAFETY**: An employee may decline to perform his/her/their assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of bodily harm or a life-threatening situation coupled with a reasonable belief that there is insufficient time to obtain guidance. The employee will promptly bring to the attention of his/her/their supervisor any unsafe working condition. The Agency will investigate, and if warranted, promptly take action to correct the unsafe condition.

Employees have the primary responsibility for their personal safety. The Agency agrees it will not assign and employees may decline to work where there is imminent risk of serious injury or a life-threatening situation.

30.6 **WELLNESS**: The Agency and the Union are committed to fostering both a

physically and mentally healthy workplace by offering support and services to assist qualifying employees to enhance their overall well-being both at work and away from the office through preventative measures that encourage healthy lifestyles and supportive assistance in times of need. The Agency and the Union will encourage employees to participate in active life-style activities to maintain mental and physical well-being, enhance employee's ability to lead a satisfying and productive life both on and off the job, and reduce Agency costs by increasing productivity and reducing illness and injuries.

**30.7 WORK AND LEAVE FLEXIBILITIES:** Participation in wellness activities are voluntary and will be undertaken on the employee's own time. Leave may be granted for wellness activities and will be coordinated between the employee and the supervisor. Employees may be granted an excused absence for a reasonable period of time to participate in wellness activities sponsored by the Agency, or a USDA Agency/Staff Office if participation is in the interest of the Federal Government. Under certain circumstances, an employee may be excused when the activity is sponsored by another Federal Government Agency/Staff Office such as OPM, etc. These situations should be determined on a case-by-case basis and approved in advance.

## **ARTICLE 31- SMOKING POLICY**

31.1 **GENERAL**: The Agency shall administer a smoking policy in accordance with applicable laws, rules, regulations, policies, procedures, and practices including Departmental Regulation - DR 4400-006, "USDA Smoking Policy" as amended, and this Agreement.

This Article covers cigarettes, e-cigarettes (vaping), smokeless tobacco, pipes, cigars, or any other type of smoking instrument. Smoking or ingesting marijuana in any form is against Federal law.

### 31.2 **SMOKING BREAKS**:

A. Employees may smoke before work, after work, while on their official breaks or during their scheduled lunch periods only. Refer to Article 15, "Lunch and Break Periods" of this Agreement. The Agency may take disciplinary action against any employee smoking during working hours other than during his/her/their official breaks and scheduled lunch period.

B. An employee's break may not exceed fifteen (15) minutes in duration unless he or she requests annual leave, compensatory time, credit hours, or leave without pay or requests to extend his/her/their workday to cover a longer break period.

C. An employee may not divide his/her/their fifteen (15) minute breaks into breaks of smaller increments.

## **ARTICLE 32 – EMPLOYEE ATTIRE**

While on duty, the office dress code policy should be business casual. Employees should and are responsible to dress properly for the occasion. Employees' office and work environment will influence their dress style. Employees should always be neat and clean. Clothing should be free of rips, tears, or holes. The Employer suggests that employees make an accurate statement in their appearance and transmit a positive, professional image always. Employee dress is a reflection of the employee and the Agency. Employees should dress to match the occasion. Shorts, short skirts, crop tops, t-shirts with advertising, etc. are not appropriate dress. If employees have any questions about what might be appropriate or not appropriate to wear at their worksite, they should talk with their supervisor.

IN WITNESS WHEREOF, the undersigned adopt this Collective Bargaining Agreement on this 24<sup>th</sup> day of November 2021.

**For American Federation of  
Government Employees (AFGE)**

JOSEPH  
MONTGOMERY

Digitally signed by  
JOSEPH MONTGOMERY  
Date: 2021.11.26  
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Joe Montgomery  
President AFGE Local 3499

*Cindy Chadwick*

Digitally signed by  
CINDY CHADWICK  
Date: 2021.11.26  
11:38:50 -07'00'

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Cindy Chadwick  
Vice President AFGE Local 3499

**For USDA Rural Development**

IRENE  
ETSITTY

Digitally signed by  
IRENE ETSITTY  
Date: 2021.11.26  
07:57:43 -07'00'

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Irene Etsitty  
Acting Colorado State Director  
USDA, Rural Development

KAMARIA  
MORRIS

Digitally signed by KAMARIA  
MORRIS  
Date: 2021.11.24 10:20:01  
-05'00'

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Kamaria Morris  
Labor Relations Specialist  
USDA, Rural Development

SARAH  
REHBERG

Digitally signed by  
SARAH REHBERG  
Date: 2021.11.24  
10:14:14 -05'00'

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Sarah Rehberg  
Labor Relations Specialist  
USDA, Rural Development