

**AMENDMENT TO THE MEMORANDUM
OF AGREEMENT BETWEEN THE COUNTY OF VENTURA
AND THE VENTURA COUNTY PROFESSIONAL PEACE
OFFICERS ASSOCIATION - PROBATION UNIT**

The County of Ventura (County) and the Ventura County Professional Peace Officers Association - Probation Unit (VCPPOA) have agreed to the following:

Sec. 1203 VACATION REDEMPTION:

After 20,800 hours of continuous County service, ~~and upon using eighty (80) hours of vacation during the past twelve (12) months, once per fiscal year an employee may request~~ **ELECT** to receive pay in lieu of either forty (40) or **UP TO** eighty (80) hours of vacation accrual at the current hourly base salary rate. ~~For employees hired after commencement of this Agreement, such a request may be made only once every twelve (12) months.~~ **ANY SUCH ELECTION SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. ANY EMPLOYEE WISHING TO RECEIVE CASH IN LIEU OF VACATION HOURS MUST SUBMIT AN IRREVOCABLE WRITTEN ELECTION BY DECEMBER 31 OF THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IN WHICH THE EMPLOYEE WISHES TO REDEEM VACATION HOURS FOR CASH.**
- B. AFTER A QUALIFIED ELECTION IS MADE, EMPLOYEES MAY REQUEST CASH-OUT PAYMENTS DURING THE CALENDAR YEAR FOR WHICH THE ELECTION WAS MADE BY SUBMITTING REQUESTS FOR PAYMENT IN THE ORDINARY PAYROLL PROCESS. AN EMPLOYEE MAY MAKE UP TO TWO REQUESTS PER CALENDAR YEAR FOR PAYMENT IN LIEU OF A COMBINED ANNUAL MAXIMUM OF EIGHTY (80) HOURS OF VACATION ACCRUAL. ONLY VACATION HOURS ALREADY ACCRUED IN THE CALENDAR YEAR FOR WHICH AN ELECTION IS MADE MAY BE CASHED OUT. CASH-OUTS FOR VACATION HOURS ACCRUED IN A PRIOR CALENDAR YEAR ARE NOT ALLOWED.**

THE ASSOCIATION AND COUNTY AGREE THAT A TEMPORARY EXCEPTION TO THE ABOVE REQUIREMENT THAT ONLY VACATION HOURS ALREADY ACCRUED IN THE CALENDAR YEAR FOR WHICH AN ELECTION IS MADE MAY BE CASHED-OUT SHALL APPLY TO EMPLOYEES WHO SUBMIT A NOTICE OF INTENT TO RETIRE TO THE VENTURA COUNTY AUDITOR-CONTROLLER'S OFFICE IN THE CALENDAR YEAR IN WHICH THE VACATION WILL BE CASHED-OUT. AS SUCH, IF AN EMPLOYEE HAS ACCRUED LESS VACATION IN A CALENDAR YEAR THAN SHE/HE WISHES TO CASH-OUT AT A GIVEN TIME, THE EMPLOYEE MAY CASH-OUT VACATION HOURS CARRIED OVER FROM A PRIOR CALENDAR YEAR, IF AND ONLY IF THE FOLLOWING CONDITIONS ARE MET:

- 1. AT THE TIME THE EMPLOYEE MADE AN IRREVOCABLE ELECTION TO RECEIVE CASH IN LIEU OF VACATION, THE EMPLOYEE SUBMITTED A NOTICE OF INTENT TO RETIRE IN THE CALENDAR YEAR IN WHICH THE VACATION WILL BE CASHED-OUT.**
- 2. AT THE TIME THE EMPLOYEE MAKES A REQUEST FOR CASH OUT PAYMENTS TO BE PAID, THE EMPLOYEE SUBMIT AN IRREVOCABLE NOTICE OF**

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RESIGNATION/RETIREMENT ON A SPECIFIED DATE IN THE CALENDAR YEAR
DURING WHICH THE PAYMENT IS TO BE MADE.

3. THIS EXCEPTION WILL EXPIRE JANUARY 1, 2018, AS TO EMPLOYEES WHO
ARE ENTITLED TO TIER I OR SAFETY RETIREMENT; AND WILL EXPIRE
DECEMBER 31, 2020, AS TO EMPLOYEES ENTITLED TO TIER II RETIREMENT.
- C. AN EMPLOYEE MUST USE EIGHTY (80) HOURS OF ACCRUED VACATION DURING THE
TWELVE (12) MONTHS IMMEDIATELY PRECEDING A CASH-OUT PAYMENT REQUEST.
FOR THIS PURPOSE, "USE" SHALL MEAN ACTUALLY TAKING TIME OFF WORK AND
BEING PAID VACATION PAY FOR SUCH TIME OFF. IF THE EMPLOYEE HAS NOT USED
EIGHTY (80) HOURS OF ACCRUED VACATION IN THE TWELVE (12) MONTHS
IMMEDIATELY PRECEDING THE CASH-OUT, THE EMPLOYEE'S CASH-OUT REQUEST
SHALL BE DENIED. IF AN EMPLOYEE IS UNABLE TO CASH-OUT BY THE FINAL
PAYROLL PROCESSING PERIOD OF THE YEAR BECAUSE THE EMPLOYEE HAS NOT
USED THE REQUIRED EIGHTY (80) HOURS IN THE PRECEDING TWELVE (12) MONTHS,
THE EMPLOYEE SHALL, FOR TAX PURPOSES, BE CONSIDERED TO HAVE HAD THE
UNLIMITED RIGHT TO CASH OUT THE AMOUNT OF ACCRUED ANNUAL LEAVE THE
EMPLOYEE HAD ELECTED TO REDEEM FOR CASH.
- IF AN EMPLOYEE IS UNABLE MEET THE EIGHTY (80) HOUR USAGE REQUIREMENT
NECESSARY TO CASH-OUT VACATION BY THE END OF THE ELECTION YEAR AS A
RESULT OF THE DENIAL OF A WRITTEN REQUEST (OR REQUESTS) TO USE VACATION,
THE EMPLOYEE'S ELECTION SHALL BE DEEMED NULL AND VOID, NO CASH-OUT
SHALL BE ALLOWED, AND THE EMPLOYEE SHALL NOT HAVE TAXES REPORTED OR
WITHHELD ON THE VALUE OF THE VACATION HOURS THAT THE EMPLOYEE HAD
BEEN ELIGIBLE TO RECEIVE. IN ORDER TO REQUEST THAT AN ELECTION BE DEEMED
NULL AND VOID, THE SUM TOTAL OF BOTH THE HOURS REQUESTED IN THE DENIALS
AND ACTUAL VACATION HOURS UTILIZED BY THE EMPLOYEE IN THE ELECTION YEAR
MUST EQUAL AT MINIMUM 80 HOURS. IT IS THE RESPONSIBILITY OF THE EMPLOYEE
TO SUBMIT THE WRITTEN DENIALS TO THE AUDITOR-CONTROLLER'S OFFICE AT THE
TIME THE REQUEST IS MADE TO VOID THE ELECTION.
- D. IF AN EMPLOYEE FAILS TO REQUEST PAYMENT FOR THE TOTAL VACATION HOURS
ELECTED FOR CASH-OUT, THE EMPLOYER SHALL UNILATERALLY CASH OUT THE
ELECTED VACATION HOURS TO THE EXTENT THAT AN EMPLOYEE HAS ACCRUED
LEAVE AVAILABLE BEFORE DECEMBER 31 OF THE CALENDAR YEAR.
- E. VACATION HOURS USED FOR PAID TIME OFF WILL BE DEDUCTED FIRST FROM
VACATION HOURS ACCRUED IN PRIOR CALENDAR YEARS, AND LAST FROM
VACATION HOURS ACCRUED IN THE CURRENT CALENDAR YEAR.

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- F. EMPLOYEES WHO ARE ELIGIBLE FOR VACATION REDEMPTION AND DO NOT MAKE AN AFFIRMATIVE ELECTION BY THE END OF THE CALENDAR YEAR SHALL BE DEEMED TO HAVE IRREVOCABLY ELECTED NOT TO REDEEM VACATION FOR PAY IN THE SUBSEQUENT CALENDAR YEAR.

- G. EMPLOYEES WHO EXPERIENCE AN UNFORESEEABLE EMERGENCY MAY BE PERMITTED TO MAKE A NEW IRREVOCABLE ELECTION AND REDEEM VACATION HOURS FOR CASH (OR TO INCREASE THE AMOUNT OF A PREVIOUS ELECTION) DURING THE CALENDAR YEAR IN WHICH THE UNFORESEEABLE EMERGENCY OCCURS. FOR THESE PURPOSES, "UNFORESEEABLE EMERGENCY" MEANS A SEVERE FINANCIAL HARDSHIP TO THE EMPLOYEE RESULTING FROM AN ILLNESS OR ACCIDENT OF THE EMPLOYEE, THE EMPLOYEE'S SPOUSE, OR A DEPENDENT OF THE EMPLOYEE, LOSS OF THE EMPLOYEE'S PROPERTY DUE TO CASUALTY, OR OTHER SIMILAR EXTRAORDINARY AND UNFORESEEABLE CIRCUMSTANCES ARISING AS A RESULT OF EVENTS BEYOND THE CONTROL OF THE PARTICIPANT. THE AMOUNT OF SUCH NEW ELECTION (OR INCREASE IN A PRIOR ELECTION) SHALL BE LIMITED TO THE AMOUNT NECESSARY TO SATISFY THE UNFORESEEABLE EMERGENCY PLUS AN AMOUNT NECESSARY TO PAY TAXES REASONABLY ANTICIPATED AS A RESULT OF THE CASH-OUT, AFTER TAKING INTO ACCOUNT THE EXTENT TO WHICH THE HARDSHIP IS OR MAY BE RELIEVED THROUGH REIMBURSEMENT OR COMPENSATION BY INSURANCE OR OTHERWISE OR BY LIQUIDATION OF THE EMPLOYEE'S ASSETS (TO THE EXTENT THAT LIQUIDATION OF THE EMPLOYEE'S ASSETS WOULD NOT ITSELF CAUSE SEVERE FINANCIAL HARDSHIP). WHETHER AN OCCURRENCE IS AN UNFORESEEABLE EMERGENCY SHALL BE DETERMINED BY THE AUDITOR-CONTROLLER'S OFFICE IN ITS SOLE DISCRETION."

- H. IF IT IS SUBSEQUENTLY DETERMINED BY THE VENTURA COUNTY AUDITOR-CONTROLLER, THE INTERNAL REVENUE SERVICE, A COURT OF COMPETENT JURISDICTION OR ANOTHER GOVERNING AUTHORITY THAT THE LEAVE REDEMPTION PROVISIONS IN PLACE PRIOR TO DECEMBER 2017 OR SUBSTANTIALLY SIMILAR, WILL NOT TRIGGER CONSTRUCTIVE RECEIPT OF INCOME FROM ACCRUED LEAVE, OR THAT THE RULE THAT ONLY VACATION LEAVE HOURS ALREADY ACCRUED IN THE CALENDAR YEAR FOR WHICH AN ELECTION IS MADE MAY BE CASHED OUT IS UNNECESSARY TO AVOID THE CONSTRUCTIVE RECEIPT OF INCOME, VCPPOA MAY, AT ITS SOLE OPTION, COMPEL THE COUNTY TO REOPEN NEGOTIATIONS IN ORDER TO RESTORE THE LEAVE REDEMPTION PROVISION IN PLACE IN DECEMBER 2017 OR SOMETHING SUBSTANTIALLY SIMILAR THAT WILL NOT TRIGGER CONSTRUCTIVE RECEIPT OF INCOME FROM ACCRUED LEAVE.

- I. THE HUMAN RESOURCES DIVISION AND AUDITOR-CONTROLLER'S OFFICE SHALL DEVELOP FORMS AND PROCEDURES FOR IMPLEMENTATION OF THIS PROGRAM.

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- I. THE HUMAN RESOURCES DIVISION AND AUDITOR-CONTROLLER'S OFFICE SHALL
DEVELOP FORMS AND PROCEDURES FOR IMPLEMENTATION OF THIS PROGRAM.

Agreed to this _____ day of December 2017, by:

For the County

For VCPPOA


