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October 29, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

Subject: Public Hearing Regarding Adoption of an Amendment to the 2022-2025 Memorandum of Agreement Between the County of Ventura and the Ventura Employees' Association; and Waiver of Second Public Hearing

Recommendations

It is recommended that your Board:

1. Commence a public hearing on adoption of an Amendment to the 2022-2025 Memorandum of Agreement (MOA) between the County of Ventura (County) and the Ventura Employees' Association (VEA); and,
2. Waive the second public hearing required by Article 20, Section 2006(B), of the Personnel Rules and Regulations, and adopt the proposed Amendment to the MOA at the conclusion of this hearing.

Fiscal/Mandates Impact

Mandatory:	No
Source of Funding:	Various
Funding Match Required:	No
Impact on Other Departments:	None

Summary of Fiscal Impact:

	<u>FY 2024-25</u>
Total Cost	\$0

Strategic Priority

This agenda item supports the County's strategic priority to attract, hire, develop, and retain a diverse workforce empowered to meet the needs of our customers.

Discussion

In 2016, outside tax counsel advised that the County's leave redemption plans, under which employees could redeem previously accrued vacation or annual leave for cash,

created the circumstances for constructive receipt of income. Specifically, under the Internal Revenue Code and its implementing IRS regulations, when an individual has the right, without substantial restriction, to convert accrued vacation or annual leave into cash, the amount that could have been converted to cash, even if the individual chose not to, is considered income and creates tax obligations. When constructive receipt occurs, the County is obligated to withhold taxes on such constructively received income or potentially be liable for: a) payment of taxes that should have been withheld; and b) penalties for taxes not withheld.

In 2016, the County informed all employee unions of the tax consequences of constructive receipt of income flowing from employee leave redemption plans. At the time of notification, the County gave each employee union the option of either negotiating with the County to amend their MOA's leave redemption plan to avoid constructive receipt or to leave their MOA's leave redemption plan language as is and to accept any potential tax consequences. The County commenced bargaining with almost all employee unions to avoid constructive receipt. However, the VEA elected not to amend their MOA and to leave the language as is, accepting the potential tax consequences their leave redemption plan creates.

In the interim, the County continued bargaining with other employee unions and, by early 2018, all other unions, with the exception of one, had agreed to amend their leave redemption plans in order to avoid constructive receipt. Those amendments included additional restrictions on employees' rights to receive cash in lieu of accrued annual leave/vacation, to avoid constructive receipt, and taxation for employees who do not redeem leave/vacation for cash.

Recently, VEA approached the County and requested to amend their MOA similar to how other employee unions had amended their MOAs, in order for VEA members/County employees to avoid constructive receipt. On October 4, 2024, the parties reached a tentative agreement to amend the leave redemption plan provisions of the VEA MOA similar to amendments made to other union MOAs. These restrictions/amendments include:

- The requirement for employees to submit, by December 31 of the prior calendar year, irrevocable elections indicating the amount of annual leave/vacation they wish to cash in in a given year;
- Allow only annual leave/vacation hours accrued in the calendar year for which the election is made to be redeemed (redemption of leave/vacation hours accrued in prior years will no longer be allowed);
- Require the County, for employees who fail to request payment for annual leave/vacation hours elected for redemption, to automatically redeem the leave/vacation and provide payment before the end of the calendar year;

- Define the lack of an affirmative election by an employee for annual leave/vacation redemption as an irrevocable election not to redeem annual leave/vacation for pay in the subsequent calendar year;
- Provide that employees may make new irrevocable elections as the result of "unforeseeable emergencies";
- Allow VEA to reopen negotiations to restore the original leave/vacation redemption provisions in the MOA prior to this amendment, if determined by the County, IRS, a court of competent jurisdiction, or other governing authority, that the previous leave redemption plan provisions will not trigger constructive receipt.

A copy of the proposed amendment to the MOA is attached as Exhibit 1. We recommend that your Board waive the second public hearing required by Article 20, Section 2006(B), of the Personnel Rules and Regulations, and adopt the proposed Amendment to the MOA at the conclusion of this hearing.

The County Executive Office, the Auditor-Controller's Office, the Ventura County Civil Service Commission, and County Counsel have reviewed this letter. If you have any questions regarding this item, please contact me at (805) 654-2561.

Respectfully submitted,



Danielle Keys
County Human Resources Director/Labor Relations



Sevet Johnson, PsyD
County Executive Officer

c: Jeffery S. Burgh, Auditor-Controller
Tiffany N. North, County Counsel
Mike Pettit, Assistant County Executive Officer
Scott Powers, County Chief Financial Officer
Ventura Employees' Association

Attachments:

- Exhibit 1 – VEA 2022–2025 MOA Amendment
- Exhibit 2 – Civil Service Commission Statement