

CITY OF YUBA CITY
STAFF REPORT

Date: November 19, 2019
To: Honorable Mayor and Members of the City Council
From: Human Resources Department
Presentation By: Natalie Springer, Human Resources Director

Summary

Subject: Police Sergeants' Side Letter

Recommendation: Adopt a Resolution approving a Side Letter with the Police Sergeants group regarding unused leave allocation

Fiscal Impact: No cost increase.

Purpose:

To approve the Police Sergeants' Side Letter regarding unused leave allocation.

Background:

At the September 17, 2019 City Council meeting, City Council approved the Police Sergeants' Letter of Understanding (LOU). The Police Sergeant group was among the first of the bargaining units to complete negotiations and have their bargaining unit agreement approved by City Council. Due in part to this, as time has passed and negotiations have continued for other units, minor adjustments to the Police Sergeant agreement need to be resolved. The side letter memorializes the process for the allocation of accrued and unused sick leave to be converted to additional CalPERS service credit and resolves concerns associated with the constructive receipt doctrine.

Analysis:

The Police Sergeants have agreed to a Side Letter for unit members classified as Local Safety Members for CalPERS Purposes. The Side Letter addresses unused leave allocation as follows:

- The City will make mandatory contributions one time only, at time of separation from employment ONLY.
- The City agrees to provide the PERS Sick Leave Conversion benefit which allows employees to convert their remaining sick leave accrual balance to additional PERS retirement service credit.
- Upon retirement from City service, an employee's unused sick leave balance shall be converted to CalPERS service credit in accordance with PERS policy and subject to the following terms:
 - The amount of eligible sick leave balance shall be determined in accordance with applicable LOU and City Rules and Regulations.

- Classic Members: If the conversion of an employee's eligible unused sick leave to CalPERS service credit would result in service credit in excess of the 90% ceiling for local safety members, only the amount of unused sick leave needed to reach the 90% ceiling will be certified to CalPERS.
- PEPRA Members: The amount of unused sick leave balance converted to CalPERS service credit shall be limited to the lesser of: (i) the balance of unused sick leave, or (ii) the equivalent of one year of CalPERS service credit.

After the allocation to CalPERS service credit or, in the case of an employee that does not retire from City service, upon separation from employment, 100% of the eligible and remaining sick leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be contributed on a mandatory basis for the benefit of the employee to the City's 457(b) plan by the City subject to the annual limitations on contributions to such plan, including catch up contribution limits if applicable. After the mandatory allocation to the 457(b) plan, the eligible and remaining sick leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be paid out to the employee in taxable compensation; provided that the total amount allocated to the 457(b) plan and paid as taxable compensation does not exceed the applicable limits set forth in the LOU.

All other leave including vacation time, administrative leave and/or comp time ("Other Leave") is ineligible for conversion to CalPERS service credit. Upon separation from employment, including retirement, 100% of eligible Other Leave (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be contributed on a mandatory basis for the benefit of the employee to the City's 457(b) plan by the City subject to the annual limitations on contributions to such plan, including catch up contribution limits if applicable. The eligible and remaining Other Leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) after the mandatory allocation to the 457(b), shall be paid out to the employee in taxable compensation; provided that the total amount allocated to the 457(b) and paid as taxable compensation does not exceed the applicable limits as set forth in the LOU.

All other provisions of the current Letter of Understanding between the City and the Police Sergeants shall remain unchanged.

Fiscal Impact:

No cost increase.

Alternatives:

Do not approve Police Sergeants' Side Letter and provide staff direction.

Recommendation:

Adopt a Resolution approving a Side Letter with the Police Sergeants group regarding unused leave allocation.

Attachments:

- A. Police Sergeants' Side Letter Resolution
- B. Police Sergeants' Side Letter

Prepared By:

/s/ Ciara Wakefield

Ciara Wakefield
Administrative Analyst II

Submitted By:

/s/ Michael Rock

Michael Rock
City Manager

Reviewed By:

Human Resources

Finance

City Attorney

NS

RB

SLC by email

ATTACHMENT A

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
APPROVING THE POLICE SERGEANTS' SIDE LETTER
JULY 1, 2019 – JUNE 30, 2020 REGARDING UNUSED LEAVE ALLOCATION**

WHEREAS, the City recognizes the Police Sergeants' commitment to the City and its citizens while providing outstanding and dedicated service to all;

WHEREAS, City staff and the Police Sergeants have negotiated a Side Letter for unit members classified as Local Safety Members for CalPERS Purposes;

WHEREAS, the City will make mandatory contributions, one time only, at time of separation from employment;

WHEREAS, upon retirement from City service, an employee's unused sick leave balance shall be converted to CalPERS service credit in accordance with PERS policy or contributed on a mandatory basis for the benefit of the employee to the City's 457(b) subject to the annual limitations on contributions to such plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

Approve the attached Police Sergeants' Side Letter.

Authorize staff to make any necessary clarifying language changes to Police Sergeants' LOU as long as the changes do not modify the Side Letter's substantive terms or past practice.

The Director of Finance is hereby authorized to make the necessary budget adjustments to implement the provisions of this resolution.

The foregoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 19th day of November 2019.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

Approved as to form:

Stacey Sheston
BB&K, Special Counsel

ATTACHMENT B

**SIDE LETTER TO THE
LETTER OF UNDERSTANDING**

Between

The City of Yuba City

And

The Yuba City Police Sergeants

July 1, 2019 through June 30, 2021

The purpose of this side letter is to amend the language pertaining to how unused leave is allocated.

Both parties have agreed to the below language:

The Employer will make mandatory contributions of accrued and unused leave in accordance with the following terms:

1. For Unit Members Classified as Local Safety Members for CalPERS Purposes:

One time only, at time of separation from employment ONLY.

The City agrees to provide the PERS Sick Leave Conversion benefit which allows employees to convert their remaining sick leave accrual balance to additional PERS retirement service credit.

Upon retirement from City service, an employee's unused sick leave balance shall be converted to CalPERS service credit in accordance with PERS policy and subject to the following terms:

- The amount of eligible sick leave balance shall be determined in accordance with applicable LOU and City Rules and Regulations.
- Classic Members: If the conversion of an employee's eligible unused sick leave to CalPERS service credit would result in service credit in excess of the 90% ceiling for local safety members, only the amount of unused sick leave needed to reach the 90% ceiling will be certified to CalPERS.
- PEPRA Members: The amount of unused sick leave balance converted to CalPERS service credit shall be limited to the lesser of: (i) the balance of unused sick leave, or (ii) the equivalent of one year of CalPERS service credit.

After the allocation to CalPERS service credit or, in the case of an employee that does not retire from City service, upon separation from employment, 100% of the eligible and remaining sick leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be contributed on a mandatory basis for the benefit of the employee to the City's 457(b) plan by the City subject to the annual limitations on contributions to such plan, including catch up contribution limits if applicable. After the mandatory allocation to the 457(b) plan, the eligible and remaining sick leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be paid out to the employee in taxable compensation; provided that the total amount allocated to the 457(b) plan and paid as taxable compensation does not exceed the applicable limits set forth in the LOU.

All other leave including vacation time, administrative leave and/or comp time ("Other Leave") is ineligible for conversion to CalPERS service credit. Upon separation from employment, including retirement, 100% of eligible Other Leave (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be contributed on a mandatory basis for the benefit of the employee to the City's 457(b) plan by the City subject to the annual limitations on contributions to such plan, including catch up contribution limits if applicable. The eligible and remaining Other Leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) after the mandatory allocation to the 457(b), shall be paid out to the employee in taxable compensation; provided

that the total amount allocated to the 457(b) and paid as taxable compensation does not exceed the applicable limits as set forth in the LOU.

Example 1: An employee classified as a “classic member” has 2200 hours of accrued sick leave and 300 hours of accrued vacation hours and needs only one year of CalPERS service credit (2000 hours) to reach the 90% ceiling for local safety members. In this case, 2000 hours will be certified to CalPERS by the City for conversion to CalPERS service credit. This would leave 200 hours from the original balance. If the employee is subject to the **50%** limit of total accrued sick leave based on their LOU and length of service, the employee would only have 1100 sick leave hours eligible for allocation subject to a lesser amount remaining after the mandatory conversion to CalPERS service credit. In this case, the lesser figure is the 200 sick leave hours remaining after the mandatory conversion to CalPERS service credit. As such, only 200 sick leave hours are considered “eligible and remaining”. All 200 sick leave hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

The 300 hours of remaining vacation would also be subject to this provision. The employee is eligible for 100% of their vacation hours. Their “eligible and remaining” vacation time for distribution would be 300 hours. All 300 hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

Example 2: An employee classified as a “classic member” has 4000 hours of accrued sick leave and 300 hours of accrued vacation hours and needs only one year of CalPERS service credit (2000 hours) to reach the 90% ceiling for local safety members. In this case, 2000 hours will be certified to CalPERS by the City for conversion to CalPERS service credit. This would leave 2000 hours from the original balance. If the employee is subject to the **30%** limit of total accrued sick leave based on their LOU and length of service, the employee would only have 1200 sick leave hours eligible for allocation subject to a lesser amount remaining after the mandatory conversion to CalPERS service credit. In this case, the lesser figure is the 1200 sick leave hours resulting from application of the 30% limit. As such, only 1200 sick leave hours are considered “eligible and remaining”. All 1200 sick leave hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

The 300 hours of remaining vacation would also be subject to this provision. The employee is eligible for 100% of their vacation hours. Their “eligible and remaining” vacation time for distribution would be 300 hours. All 300 hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

Example 3: An employee classified as a “classic member” has 2000 hours of accrued sick leave and 300 hours of accrued vacation hours and needs only one year of CalPERS service credit (2000 hours) to reach the 90% ceiling for local safety members. In this case, 2000 hours will be certified to CalPERS by the City for conversion to CalPERS service credit. Since all accrued sick leave has been used, no further allocations are made.

The 300 hours of remaining vacation would also be subject to this provision. The employee is eligible for 100% of their vacation hours. Their “eligible and remaining” vacation time for distribution would be 300 hours. All 300 hours would be contributed to the City’s 457(b) plan,

subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

Example 4: An employee (classic or PEPRA) has 2500 hours of accrued sick leave and 300 hours of accrued vacation hours but is separating from service to work for another agency rather than retiring from City service. This employee is not eligible for the sick leave conversion benefit because he or she is not retiring from City service. If the employee is subject to the **50%** limit of total accrued sick leave based on their LOU and length of service, the employee would only have 1250 sick leave hours eligible for allocation. As such, only 1250 sick leave hours are considered “eligible and remaining”. All 1250 sick leave hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

The 300 hours of remaining vacation would also be subject to this provision. The employee is eligible for 100% of their vacation hours. Their “eligible and remaining” vacation time for distribution would be 300 hours. All 300 hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

Example 5: An employee classified as a “PEPRA member” has 2500 hours of accrued sick leave and 300 hours of accrued vacation hours. In this case, 2000 hours (the equivalent of one year of service credit) will be certified to CalPERS by the City for conversion to CalPERS service credit. This would leave 500 hours from the original balance. If the employee is subject to the **30%** limit of total accrued sick leave based on their LOU and length of service, the employee would only have 750 sick leave hours eligible for allocation subject to a lesser amount remaining after the mandatory conversion to CalPERS service credit. In this case, the lesser figure is the 500 sick leave hours remaining after the allocation to CalPERS service credit. As such, only 500 sick leave hours are considered “eligible and remaining”. All 500 sick leave hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

The 300 hours of remaining vacation would also be subject to this provision. The employee is eligible for 100% of their vacation hours. Their “eligible and remaining” vacation time for distribution would be 300 hours. All 300 hours would be contributed to the City’s 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

2. Remainder of Contract Not Affected.

All other provisions of the current Letter of Understanding between the City and the Yuba City Police Sergeants shall remain unchanged.

SIGNATURES CONTINUED ON NEXT PAGE

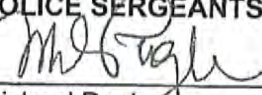
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Date: 10-14-19

CITY OF YUBA CITY

POLICE SERGEANTS

Michael Rock, City Manager



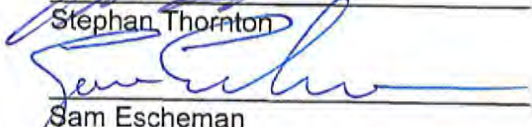
Michael Pugh

Robin Bertagna, Director of Finance



Stephan Thornton

Natalie Springer, Director of Human Resources



Sam Escherman