



**MEMORANDUM**  
OFFICE OF THE  
**COUNTY EXECUTIVE**  
COUNTY OF PLACER

**TO:** Honorable Board of Supervisors  
**FROM:** Thomas M. Miller, County Executive Officer  
Nancy Nittler, Personnel Director  
**DATE:** November 8, 2011  
**SUBJECT:** **Side Letters of Agreement with the Placer Public Employees Organization Regarding Holiday Credit Account, Vacation Accrual Cash Out, Overtime Compensation and District Attorney / Child Support Attorney Leave**

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**ACTION REQUESTED**

It is recommended that your Board take the following actions:

1. Approve the attached Side Letters of Agreement with the Placer Public Employees Organization (PPEO) and authorize the Chairman of the Board to sign the agreements: Holiday Credit Account, Vacation Cash Out, Overtime Compensation and District Attorney / Child Support Attorney Leave.
2. Introduction of an ordinance adjusting the compensation and benefits of PPEO represented General and Professional Unit employees and Confidential employees.

**BACKGROUND**

PPEO represents approximately 1,800 employees in the General and Professional Units. It is possible that current business practices related to implementation of vacation accrual cash out, Holiday Credit Accounts, District Attorney / Child Support Attorney Leave and overtime compensation might raise unanticipated tax consequences for both the employee and employer. Cash out options for each of these provisions are currently based on a fiscal year, so there may be potential constructive receipt tax issues as the options for cash payments cross over two different calendar years and involve employee choice. To address these concerns, PPEO and County representatives held meet and confer sessions to discuss changes to current business practices which would mitigate any possible tax issues.

On October 13, 2011, PPEO Board Members approved the attached side letters of agreement related to Holiday Credit Accounts, Vacation Cash Out, Overtime Compensation and District Attorney / Child Support Attorney Leave. Staff requests that your Board approve these agreements and adopt the corresponding ordinance to implement these business practice changes beginning with the current calendar year.

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### **Holiday Credit Account**

Employees earn holiday hours when a holiday occurs on the employee's regularly scheduled day off, and these hours are placed in the employee's Holiday Credit Account. Employees can request to use these hours for personal time off, and any banked hours in excess of forty (40) that the employee does not use by the end of the fiscal year are paid to the employee. A potential constructive receipt issue exists since the employee can choose to use the hours as personal time off, and controls the number of hours banked or cashed out, as well as the timing of hours cashed. The side letter moves the Holiday Credit provision to a calendar cycle and no longer allows employees to carry any holiday hours into the following calendar year. All unused Holiday Credit hours will be cashed out in the last paycheck of the IRS calendar year.

### **Vacation Accrual Cash Out**

County employees represented by PPEO, who have a vacation accrual of 300 hours or more, may request to cash out up to 40 leave hours at the employees base hourly rate including longevity if applicable, once per fiscal year. Since the cash out provision crosses two calendar years and is at employee discretion, this practice could raise potential tax consequences. To resolve this concern, the side letter moves the process year to a calendar cycle. In addition, employees utilizing this cash out provision will be required to submit an irrevocable election by December 31<sup>st</sup> of the prior calendar year, and vacation cash out of hours accrued in prior years will not be allowed.

### **Overtime Compensation**

Overtime earned is paid at one and one-half times the employee's regular rate of pay or, in lieu of pay, can be received as compensatory time earned (CTE). Currently, CTE may be paid to the employee in cash or taken in the form of time off at the option of the employee. All accumulated hours in excess of eighty (80) are paid out to the employee in cash at the end of each fiscal year. The employee's choice between cash or time off, as well as the potential for hours to be carried over from one calendar year to another, creates possible tax concerns. Again, to resolve these issues, the side letter moves this provision to a calendar cycle and does not allow employees to carry over CTE hours into the next calendar year. While employees can still choose between cash and compensatory time off, all hours earned will be paid within the same calendar year, with unused hours cashed out in the last paycheck of the IRS calendar year. These overtime compensation changes will also apply to Confidential employees.

### **District Attorney and Child Support Attorney Leave**

Employees designated as deputy district attorneys or child support attorneys receive seventy-two (72) hours of District Attorney / Child Support Attorney Leave at the beginning of each fiscal year. Employees have the option to cash out and or to use these hours as paid time off. If not utilized, the remaining leave hours are cashed out at the end of the fiscal year. Again, current cash out provisions cross calendar years, so the side letter of agreement moves the provision from the fiscal year to a calendar year (IRS tax year) and clarifies current practices with regard to

leave hours received, earned and or prorated upon separation from either of these classification series.

**FISCAL IMPACT**

These side letters of agreement were entered into by the County of Placer and the Placer Public Employees Organization as a result of meeting and conferring. The parties mutually agreed to the provisions contained in the side letters, and these provisions will become effective upon adoption by the Board of Supervisors or on the date indicated in the agreement. Approval of the ordinance addresses business process changes by moving the provisions to a calendar year cycle, cashing out unused leave balances in the calendar year earned, and requiring employees to make irrevocable vacation cash out elections.

Board approval of these side letters of agreement, and implementing ordinance, will not increase or decrease the County's liability or obligations related to these benefits. Instead the agreements simply update business practices and address possible tax consequences to our employees and/or the County.

Attachments:

1. Side Letters of Agreement: Holiday Credit Account, Vacation Cash Out, Overtime Compensation and District Attorney and Child Support Attorney Leave Side Letter of Agreement
2. Ordinance

**Side Letter of Agreement  
October 19, 2011**

A Holiday Credit Account will be created for the purpose of banking holiday hours that are earned by either a full-time or part-time employee for a holiday that falls on the employee's regularly scheduled day off. This Holiday Credit Account is different than and not subject to the same rules of use as vacation, sick leave, CTO and/or other leave accounts and may be used only pursuant to the terms contained in this article

- a. Any request to use holiday credit banked for personal time off must be made at least 48 hours in advance.
- b. All holiday credit banked hours not used by the end of the pay period for the last pay check of the calendar year, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash in the last pay check of the calendar year. No holiday credit hours will carry forward into the following calendar year.
- c. Compensation for any holiday credit banked hours balance not used at the time of termination shall be included in the employee's final paycheck.

**Side Letter Agreement**

**Placer Public Employee Organization (PPEO):**

**Placer County:**

\_\_\_\_\_  
Jerry Kalmar  
Business Manager Local 39

\_\_\_\_\_  
Robert Weygandt  
Chairman, Board of Supervisors

\_\_\_\_\_  
Madison Bland  
President Local 39

\_\_\_\_\_  
Thomas M. Miller  
County Executive Officer

\_\_\_\_\_  
Joan Bryant  
Director of Public Employees

\_\_\_\_\_  
Nancy Nittler  
Personnel Director

\_\_\_\_\_  
Chuck Thiel  
Business Representative

\_\_\_\_\_  
Clark Gehlbach  
PPEO President

\_\_\_\_\_  
Kathleen Ziegelmann  
PPEO Vice President

**Side Letter of Agreement  
October 19, 2011**

**Vacation Cash Out.**

Beginning in 2011, for the 2012 calendar year, any employee with a vacation balance of three hundred (300) hours or more may request once per calendar year to cash out up to forty (40) vacation hours of his or her annual vacation accrual in the following calendar year at his or her base hourly rate which shall be defined as the hourly rate on the salary schedule plus any longevity pay, if applicable subject to the following:

- a. Any employee utilizing this provision will be required to submit an irrevocable election by December 31<sup>st</sup> of the calendar year prior to the calendar year in which the vacation hours to be cashed out are earned.
- b. The cash out will coincide with the applicable IRS tax year based upon the check dates,
- c. The actual payment of the requested hours cannot occur until the hours to be cashed out for that calendar year have accrued. Cash-outs for hours accrued in prior years are not allowed.
- d. Requested vacation cash outs will be cashed out by the last pay check of the calendar year in which the vacation hours are earned.

**Side Letter Agreement**

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**Side Letter of Agreement  
October 19, 2011**

**Overtime Compensation.**

Overtime earned shall be paid at one and one-half times the employee's regular rate of pay or, in lieu of overtime pay, can be received as compensatory time earned (CTE) at one and one-half times the number of overtime hours worked.

The appointing authority or designee shall approve overtime prior to the time worked. CTE balances will comply with FLSA legal limits.

Subject to the provisions of subsections of this section, overtime earned may be paid in cash or taken in the form of compensatory time off at the option of the employee. CTE may be taken at any time as compensatory time off (CTO) with the prior approval of the department head or designee; however, if the requested time off is denied, the employee may request payment in cash in lieu of CTO.

Employees shall submit requests to use CTE as time off within a reasonable time period prior to the requested date(s). In keeping with FLSA requirements, approval of this request may be permitted unless the supervisor determines that use of CTE would unduly disrupt the operations of the department.

CTE accumulated within the county's calendar year must be taken as time off within the calendar year that it is earned or it will be cashed. All accumulated CTE still on record, after adjusting the balance for hours earned or used during the pay period that results in the last pay check of the calendar year, shall be paid in cash on the last pay date of the calendar year (which is the same as the IRS tax year). No roll-over of CTE balances will be allowed into the next calendar year.

While on a leave of absence, employees will be required to use all CTE balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL), or Workers' Compensation benefits, unpaid hours will be authorized for only the amount of time required for integration purposes.

It shall be the duty of the County to establish and administer a centralized compensatory time off record keeping system, and to prepare and distribute appropriate forms for the reporting thereof.

**Side Letter Agreement**

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**Placer County:**

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PPEO Vice President

**Side Letter of Agreement**  
**October 19, 2011**

**District Attorney and Child Support Attorney Leave.**

1. Employees designated as deputy district attorneys or child support attorneys shall receive seventy-two (72) hours of district attorney/child support leave at the beginning of each calendar year coinciding with the applicable IRS tax year based upon the pay check dates. Although district attorney/child support leave hours are credited to the employee at the beginning of the calendar year, these hours are considered to be earned each pay date, on a prorated basis, over the course of the calendar year.
2. Employees appointed to eligible positions after the beginning of the calendar year will receive district attorney/child support leave hours on a prorated basis for the pay dates remaining that calendar year.
3. Employees may elect to utilize their district attorney/child support leave hours on payroll as paid leave and/or may receive cash payment for such leave hours.
4. Use of district attorney/child support leave hours for paid leave shall be subject to the same limitations as the use of vacation leave; useable in ½ hour increments, except that no minimum period of employment shall be required before district attorney/child support leave hours may be so utilized.
5. While on a leave of absence, employees will be required to use all district attorney/child support leave balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL), or Workers' Compensation benefits, unpaid hours will only be authorized for the amount of time required for integration purposes.
6. Cash payment for such district attorney/child support leave hours will be at the employee's hourly rate from the salary schedule, including additional pays that are percentage based and longevity if applicable.
7. All district attorney/child support leave hours shall be taken as paid time off or paid in cash by the last pay check of the calendar year in which the leave hours are earned.
8. Employees separating from county employment, or vacating an eligible position, will have their district attorney/child support leave hours reconciled (use versus earned) based upon the number of pay dates completed within that calendar year. Employees who have utilized or cashed out more district attorney/child support leave hours than earned prior to separation from the county, or a position change, are obligated to repay the county for those unearned hours utilized or cashed out.
9. Notwithstanding the above, for the 2012 calendar year only, employees shall have the value of one-half (1/2) of the annual district attorney/child support leave accrual credited to their leave.

account in pay period 1 in consideration of the amount previously received for the 2011-2012 fiscal year. District attorney/child support leave hours not utilized or cashed out prior to pay period 13 will be cashed out on the last pay check of the 2012 calendar year.

**Side Letter Agreement**

**Placer Public Employee Organization (PPEO):**

**Placer County:**

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Business Manager Local 39

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**Before the Board of Supervisors  
County of Placer, State of California**

In the matter of: **AN ORDINANCE AMENDING  
SECTIONS OF CHAPTER 3 OF THE PLACER  
COUNTY CODE: 3.04.240, 3.04.310, 3.04.490  
3.04.520 and 3.04.830**

Ordinance No: \_\_\_\_\_

First Reading: \_\_\_\_\_

The following **Ordinance** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held \_\_\_\_\_, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
Robert Weygandt  
Chairman, Board of Supervisors

Attest:  
Clerk of said Board

\_\_\_\_\_  
Ann Holman

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA,  
DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1: That Section 3.04.240 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:**

**3.04.240 Procedure to secure overtime pay.**

A. When overtime necessary to provide essential county service has been authorized by the department head, each employee working overtime shall submit to his or her department head a written statement within one working day, stating:

1. His or her name;
2. The date and hours overtime worked; and
3. The nature of the service performed during such overtime.

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B. **Deputy Sheriffs Unit.** Overtime shall be compensated for in pay or compensatory time off at one and one-half time such employee's regular rate.

1. ~~Deputy Sheriffs Unit—Required Overtime.~~ Overtime required to be worked by the appointing authority or his or her authorized representative shall be compensated for at one and one-half time such employee's regular rate. The hours shall be compensated for in pay or compensatory time off at the discretion of the appointing authority.

~~C. 1. PPEO and Confidential Employees. Subject to the provisions of subsections A and B of this section, overtime earned may be paid in cash or taken in the form of compensatory time off at the option of the employee. Compensatory time off may be taken at any time with the prior approval of the department head or designee; however, if the requested time off is denied, the employee may request payment in cash in lieu of the denied compensatory time off. The department head or designee will approve the request in compliance with the FLSA. The employee's request to use accumulated CTO will be permitted within a reasonable time unless such use would unduly disrupt the operations of the department.~~

~~It is the department head's responsibility to assure that all CTO accumulated within the county's fiscal year by an employee shall be taken within that fiscal year. All accumulated CTO in excess of eighty (80) hours at the end of pay period 1, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash.~~

2. ~~Deputy Sheriffs Unit.~~ Subject to the provisions of subsections A and B of this section, compensatory time earned and not used by the last day of the last full two-week pay period of such fiscal year shall be carried forward into the next fiscal year up to a maximum of eighty (80) hours. All accumulated compensatory time in excess of eighty (80) hours shall be paid in cash.

~~D3.~~ Notwithstanding the provisions of subsection C of this section, an employee may request that additional compensatory time off hours be carried over into a new fiscal year, if necessary, for medical reasons. Such request may be granted if recommended by the department head and approved by the county executive officer. The county executive officer may also approve such requests for good cause other than a medical leave of absence.

**C. PPEO General and Professional Units and Confidential Employees. Overtime earned shall be paid at one and one-half times the employee's regular rate of pay or, in lieu of overtime pay, can be received as compensatory time earned (CTE) at one and one-half times the number of overtime hours worked.**

**1. The appointing authority or designee shall approve overtime prior to the time worked. CTE balances will comply with FLSA legal limits.**

**2. Subject to the provisions of subsections of this section, overtime earned may be paid in cash or taken in the form of compensatory time off at the option of the employee. CTE may be taken at any time as compensatory time off (CTO) with the prior approval of the department head or designee; however, if the requested time off is denied, the employee may request payment in cash in lieu of CTO.**

**3. Employees shall submit requests to use CTE as time off within a reasonable time period prior to the requested date(s). In keeping with FLSA requirements, approval of this request may be permitted unless the supervisor determines that use of CTE would unduly disrupt the operations of the department.**

**4. CTE accumulated within the county's calendar year must be taken as time off within the calendar year that it is earned or it will be cashed out. All accumulated CTE still on record, after adjusting the balance for hours earned or used during the pay period that results in the last pay check of the calendar year, shall be paid in cash on the last pay date of the calendar year (which is the same as the IRS tax year). No roll-over of CTE balances will be allowed into the next calendar year.**

**5. While on a leave of absence, employees will be required to use all CTE balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL) or Workers' Compensation benefits, unpaid hours will be authorized for only the amount of time required for integration purposes.**  
(Ord. 5572-B § 3, 2009; Ord. 5531-B, 2008; Ord. 5478-B (Attach. A), 2007; Ord. 5443-B, 2007; Ord. 5442-B, 2007; Ord. 5421-B, 2006; Ord. 5058-B (Attach. 13), 2000; prior code § 14.210)

**Section 2: That Section 3.04.310 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:**

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**3.04.310 Centralized compensatory time off records.**

It shall be the duty of the personnel director **County** to establish and administer a centralized compensatory time off record keeping system, and to prepare and distribute appropriate forms for the reporting thereof. (Ord. 5478-B (Attach. A), 2007; prior code § 14.222)

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**Section 3: That Section 3.04.490 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:**

**3.04.490 When to be taken.**

...

D. General and Professional Unit Vacation Cash Out. ~~Once per fiscal year,~~ **aBeginning in 2011, for the 2012 calendar year, any** employee with a vacation balance of three hundred (300) hours or more may request **once per calendar year** to cash out up to forty (40) vacation hours **of his or her annual vacation accrual in the following calendar year** at his or her base hourly rate which shall be defined as the hourly rate on the salary schedule plus any longevity pay **if applicable, subject to the following:**

**1. Any employee utilizing this provision will be required to submit an irrevocable election by December 31<sup>st</sup> of the calendar year prior to the calendar year in which the vacation hours to be cashed out are earned.**

**2. The cash out will coincide with the applicable IRS tax year based upon the check dates.**

**3. The actual payment of the requested hours cannot occur until the hours to be cashed out for that calendar year have accrued. Cash-outs for hours accrued in prior years are not allowed.**

**4. Requested vacation cash outs will be cashed out by the last pay check of the calendar year in which the vacation hours are earned.**

...

**Section 4: That Section 3.04.520 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:**

### 3.04.520 Management/district attorney and child support attorney leave.

...  
I. Deputy District Attorney/Child Support Attorney Leave. Employees designated as deputy district attorneys or child support attorneys shall receive a total of seventy-two (72) hours of administrative district attorney/child support leave at the beginning of each fiscal calendar year coinciding with the applicable IRS tax year based upon the pay check dates. Although district attorney/child support leave hours are credited to the employee at the beginning of the calendar year, these hours are considered to be earned each pay date, on a prorated basis, over the course of the calendar year Persons appointed to deputy district attorney or child support attorney positions after the start of a fiscal year will receive administrative leave on a pro-rated basis for the pay periods remaining in that fiscal year. Designated employees terminating county employment will receive a pro-rated amount of administrative leave based upon the number of pay periods completed that fiscal year. Employees who have utilized all their administrative leave and then terminate their employment or are removed from the classification of deputy district attorney or child support attorney, will have a pro-rated amount deducted from their final pay warrant. Such employees may elect to utilize any administrative leave to their credit for paid leave or may receive cash payment for such administrative leave at the regular hourly rate. Usage of administrative leave for paid leave shall be subject to the same limitations as the use of vacation leave, except that no minimum period of employment shall be required before administrative leave may be so utilized or cash payment requested by the end of each fiscal year. All administrative leave shall be taken as paid time off or paid in cash by the last day of the last full pay period of each fiscal year.

1. Employees appointed to eligible positions after the beginning of the calendar year will receive district attorney/child support leave hours on a prorated basis for the pay dates remaining that calendar year.
2. Employees may elect to utilize their district attorney/child support leave hours on payroll as paid leave and/or may receive cash payment for such leave hours.
3. Use of district attorney/child support leave hours for paid leave shall be subject to the same limitations as the use of vacation leave; useable in 1/2 hour increments, except that no minimum period of employment shall be required before district attorney/child support leave hours may be so utilized.
4. While on a leave of absence, employees will be required to use all district attorney/child support leave balances prior to going into an unpaid status. If integrating with State Disability Insurance (SDI), Paid Family Leave (PFL), or Workers' Compensation benefits, unpaid hours will only be authorized for the amount of time required for integration purposes.
5. Cash payment for such district attorney/child support leave hours will be at the employee's hourly rate from the salary schedule, including additional pays that are percentage based and longevity if applicable.
6. All district attorney/child support leave hours shall be taken as paid time off or paid in cash by the last pay check of the calendar year in which the leave hours are earned.
7. Employees separating from county employment, or vacating an eligible position, will have their district attorney/child support leave hours reconciled (use versus earned) based upon the number of pay dates completed within that calendar year. Employees who have utilized or cashed out more district attorney/child support leave hours than earned prior to separation from the county, or a position change, are obligated to repay the county for those unearned hours utilized or cashed out.

**8. Notwithstanding the above, for the 2012 calendar year only, employees shall have the value of one-half (1/2) of the annual district attorney/child support leave accrual credited to their leave account in pay period 1 in consideration of the amount previously received for the 2011-2012 fiscal year. District attorney/child support leave hours not utilized or cashed out prior to pay period 13 will be cashed out on the last pay check of the 2012 calendar year.** (Ord. 5644-B § 3, 2011; Ord. 5478-B (Attach. A), 2007; Ord. 5058-B (Attach. 25 (part)), 2000; Prior code § 14.450)

**Section 5: That Section 3.04.830 of Chapter 3 of the Placer County Code is hereby amended and shall read as follows:**

...

**3.04.830 Holiday credit account.—PPEO and DSA represented employees.**

**A. DSA Unit.**

1. ~~AA~~ holiday credit account is available to PPEO and DSA represented employees to allow full-time and part-time employees to bank holiday hours that are earned for a holiday that falls on the employee's regularly scheduled day off. This holiday credit account is not subject to the same rules of use as other leave accounts and may be used only pursuant to the provisions contained herein.
2. ~~B~~For county holidays falling on a full-time employee's RDO for employees working other than a normal Monday through Friday schedule (i.e., 9-80, 4/10, etc.), such employees will receive holiday pay in the form of eight hours credited to his or her holiday credit account.
3. ~~GA~~ part-time employee may request, in writing, that holiday pay earned on a regular day off be credited his or her holiday credit account.
4. ~~D~~Any request to use holiday credit banked hours for personal time off must be made at least forty-eight (48) hours in advance. Holiday credit banked hours may be used for integration with both State Disability Insurance (SDI) and Workers' Compensation (WC) benefits.
5. ~~E~~Any holiday credit banked hours in excess of forty (40) hours not used by the end of pay period 1, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash. Compensation for any holiday credit banked hours balance not used at the time of termination shall be included in the employee's final paycheck. (Ord. 5572-B § 14, 2009; Ord. 5531-B, 2008)

**B. PPEO General and Professional Unit.**

1. A holiday credit account will be created for the purpose of banking holiday hours that are earned by either a full-time or part-time employee for a holiday that falls on the employee's regularly scheduled day off. This Holiday Credit Account is different than and not subject to the same rules of use as vacation, sick leave, CTO and/or other leave accounts and may be used only pursuant to the terms contained in this section.
2. Any request to use holiday credit banked for personal time off must be made at least 48 hours in advance.
3. All holiday credit banked hours not used by the end of the pay period for the last pay check of the calendar year, after adjusting the balance for any hours earned or used during that same pay period, shall be paid in cash in the last pay check of the calendar year. No holiday credit hours will carry forward into the following calendar year.

4. Compensation for any holiday credit banked hours balance not used at the time of termination shall be included in the employees final pay check.

**Section 6: This ordinance shall take effect and be in full force and effect immediately upon final adoption. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.**

