



Agenda Date: 12/7/2016  
Agenda Placement: 7C

## Napa Sanitation District Board Agenda Letter

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**TO:** Honorable Board of Directors

**FROM:** Cheryl P. Schuh for Timothy Healy - General Manager  
NS-Administration

**REPORT BY:** Cheryl P. Schuh, Human Resources Officer/Clerk of the Board - 258-6003

**SUBJECT:** Approve Side Letter No. 3 to MOU with Teamsters Local 315 and AMPNSD

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### **RECOMMENDATION**

Approve Side Letter Agreement No. 3 of MOU with Teamsters Local 315 Rank & File and Supervisors Units, and Association of Management Professionals of Napa Sanitation District (AMPNSD) regarding cash payments for compensated leave and management leave.

### **EXECUTIVE SUMMARY**

Staff negotiated the successor Memorandum of Understanding with Teamsters Local 315 and AMPNSD to cover the period of July 1, 2014 through June 30, 2020. Included in the Memoranda of Understanding were provisions that allow hourly employees who earn comp time in lieu of overtime to cash out their earned comp time, and for AMPNSD employees to cash out earned management leave.

The provisions as they are currently written allow employees to elect whether to take their accrued leave as cash payments, with the election occurring in the same tax year as the payout. The concern is that the Internal Revenue Service could consider the employee to be in "constructive receipt" of the payout of leave at the time an employee has the right to make an election, and would therefore require payroll taxes to be withheld from the employee, even if the employee did not take the cash payout. This creates a circumstance where employees would have an increased tax burden without the associated cash payment (something the current payroll system is not equipped to manage), and create a significant and burdensome tracking system for comp time and management leave.

The District negotiated with both Teamsters Local 315 and AMPNSD side letters that modify the agreements. In the Teamsters agreement, comp time will no longer be eligible to be cashed out, starting January 1, 2017.

In the AMPNSD agreement, management leave will shift from a fiscal year accrual to a calendar year accrual. In July 2017, the employee will receive half of the usual accrual, then in January 2018, the employee will receive her

or his full accrual. In December, the employee will be able to make an irrevocable election to sell management leave that accrues the following calendar year, but no more than the amount that accrues in a year. This irrevocable election regarding leave not yet earned will satisfy IRS regulation regarding constructive receipt.

Staff requests and recommends that the Board of Directors approve the attached Side Letters of Agreement between the District and Teamsters Local 315 (Rank & File and Supervisors Units), and Association of Management Professionals of Napa Sanitation District (AMPNSD).

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

None.

### **BACKGROUND AND DISCUSSION**

US Treasury Regulations read as follows:

#### **26 CFR 1.451-2 Constructive Receipt of Income.**

(a) General rule. Income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions.

### **SUPPORTING DOCUMENTS**

A . Side Letter No. 3 to MOU - Teamsters Local 315

B . Side Letter No. 3 to MOU - AMPNSD

Napa Sanitation District: Approve

Reviewed By: Timothy Healy