

## APPENDIX C

### ANNUAL LEAVE/VACATION/PTO BUY BACK PLAN

**Effective Date of Resolution:** August 25, 2015

**Effective Date of Amendment:** January 1, 2016

By action of the Monterey County Board of Supervisors, the County of Monterey Section 125 Flexible Benefit Plan (Plan) is hereby amended as of the Effective Date specified above and to:

#### SECTION 1 – ESTABLISHMENT AND PURPOSE

---

##### 1.1 Establishment and Purpose

The County of Monterey (County) hereby establishes an Annual Leave/Vacation/PTO Buy Back Plan (Buy Back Plan) for the benefit of its eligible employees and pursuant to the terms and conditions contained in Internal Revenue Code Section 125 cafeteria plan regulations.

##### 1.2 Timing of Elections

Employees who are eligible to participate in this Buy Back Plan must make the election to buy back a fixed amount of Annual Leave/Vacation/PTO during the election period immediately preceding the first day of the Plan Year in which the buy back will occur.

##### 1.3 Timing of Pay Outs

Employees electing to buy back Annual Leave/Vacation/PTO may schedule distributions during the Plan Year subject to rules established by the County.

##### 1.4 Tax Treatment

The full amount of Annual Leave/Vacation/PTO buy back will be treated as taxable income to the employee regardless of the amount actually used. Additionally, unused amounts as of the last day of the Plan Year will be forfeited unless cashed out pursuant to Section 1.6 below. Unused amounts cannot be carried over into the next Plan Year.

##### 1.5 IRC Section 125 Cafeteria Plan Elections

Cafeteria plan rules require that all elections made under the Buy Back Plan must be between cash and qualified benefits, such as elections under this Annual Leave/Vacation/PTO Buy Back Plan.

##### 1.6 Cash Out Option

IRS rules permit participants to elect a cash out option for unused buy back amounts at Plan Year end, so long as the cash out occurs prior to the last day of the Plan Year. Amounts cashed out will be treated as taxable income.

##### 1.7 Determining Value of Buy Back Amount

The County will use the employee's then-current wage to determine the value of the buy back as of the date of payment.

##### 1.8 Non-Elective Annual Leave/Vacation/PTO

Since this Buy Back Plan does not allow participants to purchase additional Annual Leave/Vacation/PTO amounts, all buy backs are considered to be made from non-elective Annual Leave/Vacation/PTO.

**1.9 Eligibility**

The County’s bargaining units specify participant eligibility and the amounts available for buy back, and other cash out rules. There are similar rules for non-bargained employees.

**1.10 Recordkeeping**

The County shall establish and maintain individual participant accounts for Annual Leave/Vacation/PTO buy back elections.

---

**SECTION 2 – PLAN ADMINISTRATION**

---

**2.1 Plan Administration**

The County shall be the Administrator of the Buy Back Plan. The County may appoint any person, including but not limited to a County employee or employees, or third party administrator (Appointee) to perform ministerial duties under this Buy Back Plan so long as the duties are consistent with the County’s underlying cafeteria plan document.

**2.2 Plan Procedures and Interpretation of Plan Provisions**

The County or its Appointee shall establish and maintain Buy Back Plan procedures, which are consistent with the County’s underlying cafeteria plan documents.

**2.3 Amendment and Termination**

The County reserves the right to amend or terminate the Annual Leave/Vacation/PTO Buy Back Plan at any time by providing written notice to all Buy Back Plan participants.

**2.4 Non-Assignment**

Pursuant to rules established by the County, a participant electing to buy back Annual Leave/Vacation/PTO time shall not be permitted to assign buy back amounts, whether as cash or as Annual Leave/Vacation/PTO to any other employee of the County.

**2.5 Constructive Receipt**

At no time shall the County operate this Buy Back Plan to result in deferred compensation to any participant.

All other provisions of this Plan remain in effect to the extent they are consistent with this Amendment.

IN WITNESS WHEREOF, the undersigned authorized representative of the Monterey County Board of Supervisors has executed this Amendment as evidence of its adoption by the Monterey County Board of Supervisors at its meeting of August \_\_\_\_, 2015.

For the Monterey County Board of Supervisors:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_