

**RESOLUTION NUMBER 6453**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA ADOPTING A CITY-WIDE CATASTROPHIC ILLNESS OR INJURY LEAVE DONATION POLICY***

**WHEREAS**, Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 *et seq.*), also referred to as the Meyers-Milias-Brown Act (“MMBA”), was enacted for the purpose of promoting full communication and improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

**WHEREAS**, the City of Perris (“City”) and Local 911 of the California Teamsters (“Union”) entered into a Memorandum of Understanding between the City and Union covering the period July 1, 2022 through June 30, 2025 (“Teamsters MOU 2022-25”), which was subsequently approved by City Council Resolution No. 6018 on July 26, 2022. As currently drafted, the Teamsters MOU 2022-25 does not allow represented employees to donate accrued sick leave or vacation leave to other employees experiencing prolonged periods of absence from work due to illness or injury, often referred to as a “Catastrophic Illness or Injury Leave Policy”; and

**WHEREAS**, the federal Internal Revenue Service (“IRS”) has determined that Catastrophic Leave Policies that meet the requirements of “Major Disaster Leave Sharing Plans” (referred to hereafter as the “IRS Plan”) for medical emergencies and major disasters (as defined under IRS Notice 06-59 and IRS Rev. Ruling 09-29) allow for certain tax exemptions. In particular, the IRS has concluded that an employee who either surrenders leave to their employer for use by other employees in connection with the IRS Plan, or who deposits leave in the qualified Catastrophic leave bank pursuant to the IRS Plan, does not realize any income or incur any deductible expense or loss upon the surrender or deposit of the leave or its use by the recipient; and

**WHEREAS**, the Union has requested that the City adopt a City-wide Catastrophic Leave Policy and subsequently the City and Union have met and conferred per the requirements of the MMBA and agreed that the City may adopt a City-wide Catastrophic Leave Policy, subject to City Council approval, which meets the IRS requirements of “Major Disaster Leave Sharing Plans” for medical emergencies as defined under IRS Notice 06-59 and IRS Rev. Ruling 09-29, but which also allows employees the ability to provide direct donations of leave that does not meet the IRS requirements of “Major Disaster Leave Sharing Plans” and is therefore taxable to the leave donor; and

**WHEREAS**, the City Council believes that it is in the best interests of the City and its employees to approve and adopt such a City-wide Catastrophic Illness or Injury Leave Policy.

***NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:***

**SECTION 1.** The City Council finds that the above recitals are true and correct and are incorporated herein by reference.

**SECTION 2.** The City Council hereby approves the below Catastrophic Illness or Injury Leave Policy (hereafter referred to as the “Policy”), pursuant to the negotiations and agreements reached with the Union:

**CITY OF PERRIS EMPLOYEE CATASTROPHIC LEAVE POLICY**

**1. Purpose**

The purpose of this Policy is to provide an opportunity for employees with a catastrophic illness or injury, and who have exhausted all other paid leave, to request additional paid leave through a centralized Leave Bank or through an individual direct leave donation from City employees. City employees eligible to request a donation under this Policy are those who: 1) are facing a catastrophic illness or injury of themselves or a defined family member; 2) are ordinarily eligible to accrue paid vacation; and 3) have exhausted all applicable paid time off.

**2. Definitions**

For the purposes of this Policy, the below definitions shall apply:

“Catastrophic Illness or Injury” is defined as an illness, injury, or other medical condition affecting either the employee or their family member that requires the employee to take a prolonged absence from work, including intermittent absences related to the same illness or condition.

“City” is defined as the City of Perris.

“City Employee” is defined as an employee of the City who is eligible to accrue paid vacation time.

“Family Member” is defined as the employee’s child, spouse, domestic partner, sibling or parent.

“IRS” is defined as the federal Internal Revenue Service.

“Leave Donor” is defined as a current employee of the City whose voluntary written request to deposit leave in the Leave Bank under this Policy is approved by the City.

“Leave Recipient” is defined as a current employee for whom the City has approved an application to receive leave under this Policy.

“Manager” is defined as the City Manager or their designee.

### **3. Leave Donors**

a. An employee who has accrued vacation time or administrative leave time may donate part of their accrued vacation or administrative time to another employee who is or will be absent for an extended period of time due catastrophic illness or injury, and who does not have sufficient accrued paid time off to cover their absence. Donation shall be subject to City approval.

b. Employees wishing to make a donation shall request, in writing to the City's Human Resources Office, to donate a specified number and type of accrued paid vacation and/or administrative time hours (donated in whole hour increments) from the employee's accrued leave balance to the Centralized Leave Bank and/or to an individual employee, at the donor employee's election. To make a donation, the donor employee must maintain a minimum balance of at least eighty (80) hours of paid vacation and eighty (80) hours paid administrative time (if the employee is eligible to accrue administrative leave) for their own use. The requested donation must not cause the donor employee's balance of either vacation leave or administrative leave, if applicable, to fall below eighty (80) hours. An employee may not donate accrued sick leave under this Policy.

c. If the Manager determines that the employee requesting to donate under this Policy maintains a minimum balance of at least eighty (80) hours of vacation and administrative leave, that the requested donation would not cause their minimum balance of vacation/administrative leave hours to fall below eighty (80) hours, and the requested donation otherwise comports with this Policy, the Manager may elect to approve the donation request. Once a determination to approve or deny the donation request has been made, the Manager shall inform the donor employee in writing of the Manager's determination and the status of their donation request. If the donor employee's written donation request is approved, the donor employee becomes a Leave Donor.

d. Donated hours will be reflected as an hour-for-hour deduction from the leave balance of the Leave Donor. Donations shall be irrevocable once made.

e. No employee should be coerced, threatened, intimidated, or financially induced into donating paid leave time under this Policy.

f. Donations shall be kept confidential and shall not be revealed to anyone without a "need to know."

### **4. Leave Recipients**

#### **4.1 Request to Receive Leave from Leave Bank**

a. An employee seeking to receive donated leave pursuant to this Policy must complete a written request to the City's Human Resources Office. The request may be submitted by the employee or by their representative, which may include the employee's immediate family. The request shall verify that the employee has exhausted, or will soon exhaust, all applicable paid leave hours and continues to be unable to return to work. The request shall specify the amount of donated hours requested, pursuant to the limitations prescribed in this Policy. The request shall include verification of the catastrophic illness or injury by the treating health care provider.

b. The Manager shall approve or deny the employee's written request to receive donated leave, in writing, generally within 14 days of receipt of the application. If appropriate, the Manager may approve a modified amount of donated time that comports with the terms of this Policy. If the application is denied, the Manager shall also identify the reasons for the denial. If the application is approved, but the amount of leave approved by the Manager is less than the amount requested, the Manager will provide an explanation for this decision. Employees, or their representatives, who desire to challenge the Manager's determination may submit an appeal in writing pursuant to the City's Personnel Rules and/or any governing MOU.

c. If the employee's written request is approved, the employee becomes a Leave Recipient. The Manager shall provide notice of the approved request only to those City employees whose knowledge is necessary to provide the Leave Recipient with the approved amount of leave.

#### **4.2 Requirements to Receive Leave from Leave Bank**

a. For an employee to be eligible to receive leave from the Leave Bank, all of the following requirements apply:

i. The receiving employee must be a City employee who is entitled to accrue paid vacation time. The employee or the employee's immediate family must have experienced or must be experiencing a catastrophic illness or injury, verified by the treating health care provider.

ii. The receiving employee or their representative must complete and submit a written request pursuant to Section 4.1 of this Policy.

iii. The receiving employee must have exhausted all of their applicable paid leave hours.

iv. The receiving employee must not have received more than 480 donated hours under this Policy during a "rolling" twelve (12) month period, which is calculated by looking back over the past 12 months from the most recent date an employee requests to use any donated leave. Where a Leave Recipient uses fewer than 480 hours during a "rolling" twelve (12) month period, they will maintain eligibility to apply for additional hours under this Policy until a maximum of 480 hours has been used.

#### **5. Leave Bank**

a. The City shall establish and maintain a bank of vacation and/or administrative leave time donated by Leave Donors which may be awarded to Leave Recipients pursuant to the requirements of this Policy. The City shall not be obligated to maintain a minimum amount of time in the Leave Bank, nor shall the City be obligated to solicit donations to the Leave Bank. The City cannot guarantee to any employee that the Leave Bank will contain the amount of leave requested by the employee at the time the request is made. Requests to receive donated leave may be rejected, or the amount of hours requested may be reduced, dependent upon the amount of paid time in the Leave Bank.

b. The City shall also track individual leave donations, if and when the Leave Recipient requests individual direct leave donations;

c. Leave Recipients may receive leave hours from the Leave Bank or from individual direct donors, in accordance with the Leave Recipient's written request, which is subject to approval and modification by the City.

d. Donations made to the Leave Bank may be used by any Leave Recipient, subject to approval by the City. Individual donations made directly between employees may be used only by the specified individual Leave Recipient. Any leave allocated from the Leave Bank to a Leave Recipient will be paid at the Leave Recipient's normal rate of compensation.

e. Any leave received by a Leave Recipient may not be converted into cash in lieu of using the leave.

f. Donations are not tax deductible for the Leave Donor. If a Leave Donor gives directly to a Leave Recipient, the Leave Donor may be subjected to taxes on the leave donated. Leave Recipients receive donated leave time subject to the recipient's normal payroll deductions and subject to all taxes as required by law.

g. Any leave allocated to a Leave Recipient from the Leave Bank that is unused at the time that the Leave Recipient returns to work and no longer requires use of the allocated leave must be returned to the Leave Bank. Any such unused leave time does not belong to the Leave Recipient.

**SECTION 3.** This Resolution shall take effect immediately upon adoption.

***ADOPTED, SIGNED, and APPROVED*** this 30<sup>th</sup> day of July 2024.

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Mayor, Michael M. Vargas

ATTEST:

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City Clerk, Nancy Salazar

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF PERRIS )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 6453 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held 30th day of July, 2024, by the following called vote:

AYES: NAVA, CORONA, RABB, ROGERS, VARGAS  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

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City Clerk, Nancy Salazar