



Legislation Details (With Text)

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**On agenda:** 8/21/2014    **Final action:** 8/21/2014

**Title:** 1. \*Adopt a Side Letter of Agreement on Compensatory Time Off between the City of Fresno (City) and the International Association of Fire Fighters, Local 753 - Unit 5, Non-Management Fire (Fire Basic)  
2. \*Adopt an Amendment to the Memorandum of Understanding (MOU) between the City of Fresno (City) and the International Association of Fire Fighters, Local 753 - Unit 10 (Fire Management), correcting a clerical error

**Sponsors:** Personnel Services Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Amendment to Fire Mgmt MOU, 2. CTO Side Letter of Agreement with Fire Basic

Date	Ver.	Action By	Action	Result
8/21/2014	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**August 21, 2014**

**FROM:** JEFF CARDELL, Director  
Personnel Services Department

**BY:** KEN PHILLIPS, Labor Relations Manager  
Personnel Services Department

**SUBJECT**

- \*Adopt a Side Letter of Agreement on Compensatory Time Off between the City of Fresno (City) and the International Association of Fire Fighters, Local 753 - Unit 5, Non-Management Fire (Fire Basic)
- \*Adopt an Amendment to the Memorandum of Understanding (MOU) between the City of Fresno (City) and the International Association of Fire Fighters, Local 753 - Unit 10 (Fire Management), correcting a clerical error

**RECOMMENDATIONS**

It is recommended that Council approve the attached Side Letter of Agreement on the accumulation

and use of Compensatory Time Off (CTO) for City employees in Unit 5, represented by the International Association of Fire Fighters, Local 753 (Fire Basic).

It is also recommended that Council approve the attached change to the Memorandum of Understanding (MOU) between the City and Unit 10, represented by the International Association of Fire Fighters, Local 753 (Fire Management).

## **EXECUTIVE SUMMARY**

In July 2014, the City adopted Resolution No. 2014-109, to implement changes in wages, hours, and other terms and conditions ("Terms and Conditions") for employees represented by Fire Basic. Federal law, specifically, 29 U.S. Code Section 207 (o) of the Fair Labor Standards Act (FLSA) provides that CTO in lieu of overtime pay for represented employees can only be provided where there is a written agreement with the represented employees' bargaining unit. The attached Side Letter of Agreement would allow for the continuation of CTO for employees in Unit 5, consistent with the requirements of the FLSA.

In addition, on January 30, 2014, Council adopted the successor MOU between the City and the Fire Management Unit, for the effective period of August 5, 2013 through June 30, 2016. The MOU adopted by Council contains a clerical error which could materially affect retirement calculations for employees if not corrected. Council is asked to approve the corrected page.

## **BACKGROUND**

**FIRE BASIC CTO SIDE LETTER:** The City and Fire Basic started negotiations on a successor Memorandum of Understanding (MOU) in May, 2013. Fire Basic presented offers to its membership on three occasions but the Fire Basic members did not ratify any of the offers. Subsequently, Council adopted Terms and Conditions for the Unit on July 10, 2014.

The MOU between the City and Fire Basic has traditionally included a provision which allows firefighters to receive CTO in lieu of overtime under specific circumstances. The Agreement also specifies the amount of compensatory time a firefighter can accrue and provides guidelines for use or cash-out of CTO.

The City and Fire Basic have a mutual interest in continuing the practice regarding CTO; however, FLSA requires that the parties have a written agreement before CTO can be used in lieu of overtime. The attached Side Letter meets the requirements of FLSA to continue CTO. Council is asked to approve the attached proposed Side Letter of Agreement on CTO.

The City Attorney's Office has reviewed and approved as to form the Side Letter of Agreement.

**FIRE MANAGEMENT MOU CLERICAL ERROR:** The Fire Management MOU includes a provision on education incentives. The provision should indicate that these allowances are to be included in pension calculations. As a result of a clerical error, an item on page 14 of the MOU was inadvertently shown as deleted or crossed out. The item is in subsection 2. of Article VII, Section F. of the MOU. It reads as follows: "All compensation earned by a member pursuant to education incentive shall be compensable for retirement purposes." The subsection was at the end of a series of items being deleted. The deletion was extended to the pension provision through clerical error.

No representation was made by either the City or the representatives of Fire Management that the subsection was to be deleted. In approving the MOU, Council was not asked to change the provision in the Staff Report.

Under normal circumstances, the clerical error would be corrected through action by the City Clerk at the request of the Personnel Services Department; however, Retirement has recommended that the correction be approved by Council because of the potential material effect on retirement calculations. Council is asked to approve the attached Amendment to the MOU with the correction.

The City Attorney's Office has reviewed and approved as to form the Amendment to the Fire Management MOU.

## **ENVIRONMENTAL FINDINGS**

Not applicable.

## **LOCAL PREFERENCE**

Not applicable.

## **FISCAL IMPACT**

There are no new costs associated with continuing CTO for employees in Unit 5, or amending the MOU with Fire Management.

Attachments:                   1) CTO Side Letter of Agreement with Fire Basic  
  2) Amendment to Fire Management MOU