

AGENDA ITEM NO.

COUNCIL MEETING 4/10/07

APPROVED BY


DEPARTMENT DIRECTOR

CITY MANAGER

April 10, 2007

FROM: TERRY A. BOND, Director
Personnel Services Department

SUBJECT: 1. ADOPT THE SIXTEENTH AMENDMENT TO THE FY07 SALARY RESOLUTION 2006-257 TO PROVIDE CERTAIN BENEFITS TO NON-REPRESENTED EMPLOYEES IN UNIT 02.

2. APPROVE AN APPENDIX TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT.

KEY RESULT AREA

Employee Satisfaction, Financial Management

RECOMMENDATION

Staff recommends that Council approve the following:

1. 16th Amendment to the Salary Resolution 2006-257 to extend certain benefits for non-represented classes listed in Exhibit 2, Section 2.0; and,
2. Appendix to City of Fresno Retiree Health Reimbursement Arrangement ("HRA") to include participation of non-represented employees in Unit 02.

EXECUTIVE SUMMARY

Resolution 2006-257, the FY2007 Salary Resolution, was previously amended to reflect salary adjustments, benefits and other modifications resulting from the approval of successor MOU's with the City of Fresno Management Employees Association (CFMEA) and the City of Fresno Professional Employees Association (CFPEA). Staff is recommending that the Resolution be further amended to extend certain benefits afforded to these units, to those employees listed in Exhibit 2, Section 2.0 - Non-Represented Classes of the FY2007 Salary Resolution, and that the attached Appendix to the HRA be approved to allow participation by these employees.

BACKGROUND

On July 25, and September 26, 2006, respectively, Council approved successor MOU's for CFMEA and CFPEA, which were both effective-dated July 1, 2006. The following is a list of significant benefits received through the negotiation process by those units, which are not currently provided to unrepresented employees in similar classifications:

1. Inclusion in the City's Health Reimbursement Arrangement (HRA) with an improved sick leave cash out that allows employees to use supplemental sick leave, frozen sick leave and sick leave for retiree medical premiums.
2. Under certain conditions, employees exempt from overtime may be granted Administrative Time Off that shall not be deducted from any other existing leave banks.
3. The ability to cash out up to 48 hours or 25% of Annual Leave annually.
4. The ability to cash out up to 40 hours of Vacation Leave each November for those who elected to remain on a Vacation/Sick Leave program and who have 240 or more hours of sick leave.
5. The ability to use Frozen Sick Leave for the first 24 hours of an extended illness.
6. Payment at time of separation from City employment for Supplemental Administrative Leave earned but not yet credited to the employee's leave bank.

Certain employees in Section 2.0 of the Salary Resolution are not represented and do not negotiate with the City. Adjustments to compensation and benefits can only be made through Council approval of modifications or amendments to the Salary Resolution. There is some comparability between positions represented by CFMEA, CFPEA and Unit 02. To extend the benefits listed above to employees listed in Exhibit 2, Section 2.0 - Non-Represented Classes, it is recommended that the Salary Resolution be amended as indicated on the attached Amendment to Resolution 2006-257.

The attached Appendix has been prepared for attachment to the HRA Plan Document so that employees in Exhibit 2, Section 2.0 – Non-Represented Classes can participate in the HRA.

KEY OBJECTIVE BALANCE

The recommended action balances the key objectives of employee satisfaction and financial management. Employee satisfaction is achieved with prudent financial management by providing these benefits through amending appropriate Sections of the Salary Resolution.

FISCAL IMPACT

It is estimated that the ability to cash out Annual Leave or Vacation has the potential cost of approximately \$54,000 in the first year and \$29,000 in subsequent years. The estimate is based on cash out history of units that have this benefit. However, it should also be noted that Annual Leave is a vested benefit. If it is not cashed out, it can either be used for leave or must be cashed out when the employee leaves the City. Cash out at current levels of pay may be less costly than cash out at a future higher rate of pay.

March 30, 2007

Attachment: 16th Amendment to 2006-257 FY07 Salary Resolution
Appendix for HRA

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO MAKING THE SIXTEENTH AMENDMENT TO RESOLUTION NO. 2006-257 ENTITLED "A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ESTABLISHING RULES FOR THE APPLICATION OF CITY EMPLOYEE COMPENSATION RATES AND SCHEDULES AND RELATED REQUIREMENTS, AND ESTABLISHING COMPENSATION RATES AND SCHEDULES FOR FY07"

RESOLVED, by the Council of the City of Fresno, as follows:

SECTION 1.

Page 7, Section 8 – ADMINISTRATIVE LEAVE FOR EMPLOYEES IN EXHIBIT 2-2.0 Paragraph B(2) of Resolution No. 2006-257 is hereby added:

- B(2) For employees in Exhibit 2, Section 2.0, earned, but uncredited additional administrative leave shall be paid to an employee at the time of separation from employment with the City.**

SECTION 2.

Page 8, Section 9 – SICK LEAVE USAGE AND COMPENSATION Paragraph A of Resolution No. 2006-257 is hereby amended:

- A Employees holding a permanent appointment in a class included in Exhibit 2, Section 2.0 who are not participating in an annual leave plan and who meet the eligibility criteria in Section 19(D), shall, upon separation from City service, be compensated for their unused sick leave balance in the following manner: The number of hours of accumulated sick leave in excess of 1,200 shall be compensated at \$2.00 for each hour if eligible for service retirement, or at a disability retirement if the employee is otherwise eligible for service retirement, be credited with the number of accumulated sick leave balances in excess of 240 hours at the time of retirement multiplied by 40% of the employee's then current hourly rate of pay to be used solely to pay premiums for medical insurance (including COBRA premiums), pursuant to the City's Health Reimbursement Arrangement as set forth in Section 19(D).**

SECTION 3.

Page 8, Section 10 – ANNUAL LEAVE FOR EMPLOYEES IN EXHIBIT 2 – 2.0 Paragraph B(1)(g) of Resolution No. 2006-257 is hereby added:

- B(1)(g) Unused Annual Leave Pay Out During Fiscal Year – Employees will be permitted to cash out up to forty-eight (48) hours or twenty-five percent (25%) of their annual leave balance, whichever is greater, each fiscal year.**

SECTION 4.

Page 8, Section 10 – ANNUAL LEAVE FOR EMPLOYEES IN EXHIBIT 2 – 2.0
Paragraph B(3) of Resolution No. 2006-257 is hereby amended to read:

- B(3)(a) Use of Frozen Sick Leave – Except for usage permitted by California Labor Code Section 233 (Sick Leave; Use to Attend to Illness in Family) and Special Sick Leave, frozen sick leave balances may only be used by the employee for a medically verified extended illness over 24 consecutive work hours. ~~Employees will use annual leave to cover the first 24 consecutive work hours for each medically verified extended illness situation prior to using frozen sick leave balances.~~**

- B(3)(b) Unused Frozen Sick Leave Pay Out – Upon separation from City service, ~~employees will be compensated for only those unused, frozen, sick leave balances in excess of 1,200 hours at \$2.00 per hour. Compensation received under this provision will not be considered pensionable for retirement purposes if eligible for service retirement or at a disability retirement if the employee is otherwise eligible for service retirement, employees who meet the eligibility criteria in Section 19(D) shall be credited with the number of accumulated frozen sick leave balances in excess of 240 hours at the time of retirement multiplied by 40% of the employee's then current hourly rate of pay to be used solely to pay premiums for medical insurance (including COBRA premiums), pursuant to the City's Health Reimbursement Arrangement as set forth in Section 19(D).~~**

SECTION 5.

Page 11(a), Section 12 – SUPPLEMENTAL SICK LEAVE FOR EMPLOYEES IN EXHIBIT 2 – 2.0 of Resolution No. 2006-257 is hereby amended to read:

Each July 1, Non-Represented management employees in positions/classifications set forth in Exhibit 2-2.0 will receive 40 hours of supplemental sick leave. Upon their employment by the City, new employees appointed to such positions shall be credited with a pro-rated number of hours for each full calendar month remaining on such appointment in the fiscal year. Employees in a Non-Represented management status may utilize the hours: (1) once regular sick or annual leave has been exhausted; (2) as service credit on an hour-per-hour basis upon retirement; (3) to be cashed out at retirement or separation from permanent status with the City **if not eligible for participation in the Health Reimbursement Arrangement**; ~~or~~ (4) may be used in the performance of community activities during the course of the employee's normal work day, with the

appropriate approval; or (5) placed in a Health Reimbursement Arrangement in accordance with Section 19(D).

SECTION 6.

Page 12, Section 12.5 – ADMINISTRATIVE TIME OFF FOR EMPLOYEES IN EXHIBIT 2 – 2.0 of Resolution No. 2006-257 is hereby added:

City employees who are designated as exempt from overtime under the provisions of the Fair Labor Standards Act and who receive administrative leave pursuant to Section 8, may be granted administrative time off if the supervisor or designee determines that service delivery and performance of job functions will not be impaired due to the employee's absence. Such time off shall not be calculated on an hour-for-hour basis in relation to total hours worked. Administrative time off shall not be deducted from any existing leave banks.

Administrative time off must be scheduled in advance when possible, approved as administrative time off by the employee's supervisor or designee and generally taken in increments of less than one day.

Only Department Directors, Assistant Directors or Division Managers may approve administrative time off for a full day's absence.

SECTION 7.

Page 14, Section 19 – BENEFITS FOR FULL TIME PERMANENT EMPLOYEES OCCUPYING CLASSES IN EXHIBIT 2 – 2.0 – NON-REPRESENTED CLASSES Paragraph D of Resolution No. 2006-257 is hereby added:

- D. The City currently maintains a Health Reimbursement Arrangement (HRA) that qualifies as a "health reimbursement arrangement" as described in Internal Revenue Service (IRS) Notice 2002-45 and other guidance published by the IRS regarding HRAs.**

At separation from permanent employment with the City of Fresno by service retirement or at a disability retirement if the employee is otherwise eligible for service retirement, employees who have used eighty (80) hours or less of frozen sick leave and/or annual leave used for sick time and/or sick leave and/or vacation leave used for sick time (excluding only hours used for Workers' Compensation benefits) in the 24 months preceding their date of retirement, will be credited with an account for the employee under the HRA to be used solely to pay premiums for medical insurance (including COBRA premiums). The "value" of the account shall be determined as follows:

- **The number of accumulated supplemental sick leave hours at the time of retirement multiplied by the employee's then current hourly base rate of pay.**
- **For those with annual leave, the number of accumulated frozen sick leave hours in excess of 240 hours at the time of retirement multiplied by 40% of the employee's then current hourly base rate of pay.**
- **For those with vacation/sick leave, the number of accumulated sick leave hours in excess of 240 hours at the time of retirement multiplied by 40% of the employee's then current hourly base rate of pay.**
- **The hourly base rate of pay shall be the equivalent of the monthly salary for an employee as reflected in the applicable Exhibit, multiplied by twelve (12) months then divided by 2,080 hours.**

The HRA accounts shall be book accounts only – no actual trust account shall be established for any employee. Each HRA book account shall be credited on a monthly basis with a rate of earnings equal to the yield on the City's Investment Portfolio (provided that such yield is positive).

The HRA accounts shall be used solely to pay premiums for medical insurance (including COBRA premiums) covering the participant, the participant's spouse (or surviving spouse in the event of the death of the participant), and the participant's dependents. Once a participant's account under the HRA has been reduced to \$0, no further benefits shall be payable by the HRA. If the participant, the participant's spouse, and the participant's dependents die before the participant's account under the HRA has been reduced to \$0, no death benefit shall be payable to any person by the HRA.

While this provision is in effect, eligible employees shall not be allowed to cash out any accumulated or accrued supplemental sick leave or frozen sick leave or sick leave at retirement.

SECTION 8.

Page 8, Section 21 –LEAVE BALANCES Paragraph B of Resolution No. 2006-257 is hereby added:

- B** Eligible employees in classes listed in Exhibit 2, Section 2.0 who are not participating in the annual leave plan, shall accumulate vacation leave as provided in Fresno Municipal Code Section 2-1510, except that subsection (h) shall not apply. Said employees who have been continuously employed less than ten years shall be allowed to accumulate unused vacation leave credit for

four hundred (400) hours. Said employees who have been continuously employed for ten years or more shall be allowed to accumulate unused vacation credit of five hundred (500) hours. **Said employees may, in November of each year, request a cash payment from eight (8) to forty (40) hours of any vacation accrual the employee has acquired prior to the December payroll period, if on October 31st of that year, the employee has a balance of two hundred-forty (240) or more hours of sick leave.** All other provisions of Fresno Municipal Code Section 2-1510 shall apply.

SECTION 9.

Upon final legislative approval, this resolution shall become effective upon adoption.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2007.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2007

Mayor Approval/No Return: _____, 2007

Mayor Veto: _____, 2007

Council Override Vote: _____, 2007

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Victoria Parks Little
Deputy

**CITY OF FRESNO
RETIREE HEALTH REIMBURSEMENT ARRANGEMENT
APPENDIX FOR
CITY OF FRESNO NON-REPRESENTED EMPLOYEES - UNIT 02**

The non-represented employees in Unit 02 shall be eligible to participate in the Plan, in accordance with the Eligibility Requirements paragraph of the Plan, and governed by this appendix to the Plan.

2.07. Conversion Rate.

For purposes of the Conversion Rate paragraph of the Plan and the Initial Credit Amount subparagraph of the Plan, the Conversion Rate shall be (i) forty percent (40%) with respect to accumulated sick leave and frozen sick leave hours and (ii) one hundred percent (100%) with respect to accumulated supplemental sick leave hours.

2.09. Credited Hours.

For purposes of the Credited Hours paragraph of the Plan, "Credited Hours" for Employees governed by this appendix to the Plan means:

- Accumulated annual leave hours
- Accumulated supplemental sick leave hours
- Accumulated frozen sick leave hours for employees on annual leave
- Other accumulated hours: accumulated sick leave hours for employees on vacation/sick leave

2.15. Hourly Base Rate of Pay.

For purposes of the Hourly Base Rate of Pay paragraph of the Plan, the number of hours used to determine Hourly Base Rate of Pay for Employees governed by this appendix to the Plan shall be two thousand eighty (2,080) hours.

2.16. Maximum Used Hours.

For purposes of the Maximum Used Hours and Eligibility Requirements paragraphs of the Plan, the maximum number of Credit Hours used by an Employee shall be eighty (80) Credited Hours (excluding Credited Hours used for Workers' Compensation benefits) in the twenty-four (24) months preceding the time of the Employee's Termination of Employment.

2.17. Minimum Credited Hours.

For purposes of the Minimum Credited Hours and Eligibility Requirements paragraph of the Plan, the minimum number of Credited Hours shall be two hundred forty (240) hours for sick leave and frozen sick leave. There is no minimum hours for accumulated supplemental sick leave hours.

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Victoria Parks Tuttle
Deputy City Attorney