

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
ADOPTING THE LETTER OF UNDERSTANDING WITH THE
ASSOCIATION OF MILPITAS BATTALION CHIEFS**

WHEREAS, the City of Milpitas (“City”) and the newly-formed employee group, Association of Milpitas Battalion Chiefs (“AMBC”), have not yet completed the meet and confer negotiations over the terms of the initial Memorandum of Understanding (“MOU”) to be entered into between the City and AMBC; and

WHEREAS, before a complete MOU is negotiated and approved the City and AMBC have considered entering into an interim agreement regarding AMBC compensation for a limited duration as set forth in the proposed Letter of Understanding, a copy of which is attached hereto as Exhibit A (“LOU”).

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The LOU between the City and AMBC is hereby adopted and is to be effective upon ratification by the affected membership of AMBC.

PASSED AND ADOPTED this ____ day of _____ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A

LETTER OF UNDERSTANDING BETWEEN
THE CITY OF MILPITAS
AND
THE ASSOCIATION OF
MILPITAS BATTALION CHIEFS

Regarding Additional Duty Coverage

The City of Milpitas and the Association of Milpitas Battalion Chiefs execute this Letter of Understanding ("LOU") regarding the coverage of additional duty chief work periods.

Recitals:

WHEREAS, the Association of Milpitas Battalion Chiefs (AMBC) has heretofore petitioned the Municipal Employee Relations Officer (City Manager) for recognition as an established representation unit by Petition signed 12-13-12 by all then Milpitas Battalion Chief employees; and

WHEREAS, by letter dated May 31, 2013, the City Manager for the City of Milpitas did confirm recognition of AMBC as the bargaining group and labor representative of the Milpitas Battalion Chiefs, having received satisfactory information establishing that it represents a majority of the employee Battalion Chiefs of the City of Milpitas; and

WHEREAS, the parties have not yet completed the meet and confer negotiations over the terms of the initial MOU for AMBC, but wish to enter into an interim agreement regarding AMBC compensation to be in effect for limited duration as set forth below before a complete MOU is negotiated and approved and, therefore:

The City of Milpitas and the Association of Milpitas Battalion Chiefs agree:

1. During staffing deficiencies in the rank of Battalion Chief, additional hours worked past the fifty-six (56) hour workweek schedule will be compensated at the straight hourly rate for the applicable Battalion Chief compensation level.

2. It is acknowledged by the parties that, notwithstanding the terms of this LOU, AMBC members will continue in their current status as "exempt" employees within the meaning of the Milpitas Personnel Rules and Regulations and Ordinances and under the Meyers-Milias Brown Act.

3. This LOU shall be effective upon ratification by the affected membership of the Association of Milpitas Battalion Chiefs and by the Milpitas City Council. The compensation shall include shifts beginning on March 28, 2013.

4. The provisions of this LOU shall expire effective October 8, 2013 or at such earlier time as it is replaced by an approved MOU between the City of Milpitas and AMBC.

Dated: August ____, 2013

CITY OF MILPITAS

By: _____
Thomas C. Williams, City Manager

Dated: August ____, 2013

ASSOCIATION OF MILPITAS
BATTALION CHIEFS

By: _____
Robert Mihovich, President