

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING AGREEMENT WITH THE MILPITAS POLICE OFFICERS ASSOCIATION EXTENDING ITS CURRENT MEMORANDUM OF UNDERSTANDING THROUGH DECEMBER 31, 2012 AND PROVIDING FOR COST-SAVING MEASURES

WHEREAS, the local and state economy continues to suffer unprecedented economic turbulence that has led to a marked decrease in government revenues; and

WHEREAS, the City’s projected 2011-12 Fiscal Year General Fund budget faces an estimated initial budget gap of approximately of \$12 million due to sharp declines in projected revenues, particularly in the area of local sales taxes, transient occupancy taxes, property taxes, and revenues from the State of California; and

WHEREAS, in light of such continuing and future budgetary shortfalls, the City has instituted cost-saving measures such as staff layoffs, reductions in operating budgets, the use of federal stimulus funding, and the implementation of cost-saving programs and contracts; and

WHEREAS, in order to address the shortfalls in the City’s Fiscal Year 2011-12 General Fund Budget, it was necessary to meet and confer with employee associations and unrepresented employees to attempt to obtain concurrence with certain employee concessions. Representatives of the City and the Milpitas Police Officers Association (“MPOA”) have met and conferred in good faith and have come to an agreement, which is memorialized in the document attached hereto as Exhibit A (“Agreement”) and is ready for determination by the City Council; and

WHEREAS, the Agreement extends the currently in effect Memorandum of Understanding from July 1, 2011 through December 31, 2012 and extends the unpaid mandatory furlough program for the MPOA and other budget-reduction measures as set out in the Agreement, which are the best methods for achieving budgetary reductions in the upcoming fiscal year while still preserving vital City public safety services.

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 City Council hereby approves the Agreement with the Milpitas Police Officers Association, attached hereto as Exhibit A.

PASSED AND ADOPTED this _____ day of _____, 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

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF MILPITAS AND
MILPITAS POLICE OFFICERS ASSOCIATION

4/1/11

It is hereby agreed by and between the City of Milpitas and the Milpitas Police Officers Association:

The mandatory furloughs currently in effect up to and including June 30, 2011 shall be extended from July 1, 2011 up to and including December 31, 2012. Such extension includes all mandatory furlough conditions previously agreed to by MPOA and the City.

1. Employees represented by the Milpitas Police Officers Association are currently subject to mandatory furloughs of 145.5 unpaid hours for fiscal year 2010/2011. Employees working different or less hours are subject to a proportionate amount of mandatory furlough hours depending upon their workweek. Employee paychecks shall show 5.6 unpaid hours for each of the 26 pay periods from July 1, 2011 to June 30, 2012. Employee pay shall accordingly be reduced by 5.6 hours for each of the 26 pay periods from July 1, 2011 to June 30, 2012. For the fiscal year 2012/2013, employee paychecks shall show 5.6 unpaid hours for each of the 13 pay periods from July 1, 2012 up to and including December 31, 2012. Employee pay shall accordingly be reduced by 5.6 hours for each of the 13 pay periods from July 1, 2012 to December 31, 2012.

2. Furlough days may be distributed evenly throughout the fiscal year. Schedules shall be set by each of the Department Heads for their supervised employees, although Department Heads will consider substitution days based upon employee requests and the needs of the department. Employees may pre-use furlough hours in lieu of pre-approved leave. Each employee shall have a time bank of 145.5 furlough hours established as of July 1, 2011 and a time bank of 72.75 hours established as of July 1, 2012. Each employee shall be allowed to substitute the required furlough hours in lieu of any paid leave. Approved furlough leave is not subject to FLSA back-fill agreements. Usage of such leave shall reduce the furlough time bank hours for that employee.

3. The City Manager agrees to make best efforts to avoid layoffs for employees in the Milpitas Police Officers Association bargaining unit for participating in the mandatory work furloughs.

4. All ability to sell back vacation time under the current MOU is hereby suspended. Notwithstanding this provision the City Manager may make exceptions for hardship on a case-by-case basis. The City Manager's decision shall be final and not subject to grievance or other review. The validity of this section 4 is dependant upon future POA member approval.

5. From the time this MOU is agreed to and signed by all parties and up to December 30, 2012, 75,000 miles shall be extended to 100,000 miles in MOU Section 30.01.1 and 30.03.2 and 6 years shall be extended to 7 years in MOU Section 30.01.1.

6. The provisions of this Memorandum of Understanding, except Section 5 as set forth above, shall take effect on July 1, 2011 and expire on December 31, 2012. The current MOU, set to expire on December 31, 2011, shall be extended with no changes other than those matters set forth herein up to and including December 31, 2012.

7. If this Memorandum of Understanding is signed by the representatives of the City of Milpitas and the representatives of the Milpitas Police Officers Association, it shall not be binding but shall be presented to the Milpitas City Council for determination, pursuant to Calif. Govt. Code § 3505.1.

Dated

Matthew Toffey, President
Milpitas Police Officers Association

Dated


David P. Clisham, Attorney for
Milpitas Police Officers Association

Dated

Tom Williams, City Manager

Dated

Carmen Valdez, HR Director

Dated

Michael Ogaz, City Attorney