

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
CONFIRMING CURRENT FIRE DEPARTMENT BUDGET STATUS**

WHEREAS, beginning in 2007, the world was faced with a global economic decline, liquidity crisis and the bursting of the U.S. housing bubble; and

WHEREAS, this economic decline caused real estate pricing in California and elsewhere to plummet, damaging financial institutions globally resulting in a global recession affecting the entire world economy which some consider the worst since the Great Depression of 1930; and

WHEREAS, the effects of the Great Recession continue to this day but had a particular detrimental effect on the budget of the State of California which suffered a budget decline of at least \$15 billion dollars in 2008 and continued through fiscal year 2011-2012 where a budget gap of \$25 billion was announced by Governor Jerry Brown; and

WHEREAS, Governor Brown proposed to bridge the State budget gap by, among other things, eliminating Redevelopment and the tax increment funding of redevelopment projects and this proposal was implemented by the State Legislature in June of 2011, by which Redevelopment Agencies and their tax increment funding stream were eliminated by February 2012; and

WHEREAS, the elimination of Redevelopment tax increment resulted in an unforeseen \$7 million shortfall in the City of Milpitas general fund budget creating a budget crisis for the City for the fiscal year 2012/2013 budget cycle which necessitated severe austerity measures citywide including layoffs of numerous city employees and the outsourcing of city jobs for economic purposes in order to reduce expenses and balance the budget; and

WHEREAS, the Milpitas Fire Department, as did all other City departments, was forced to reduce its budget in order to bridge the budget gap in fiscal year 2012-2013, it did not have to undergo layoffs of fire personnel, but did have to undergo budget cuts including cuts to its overtime budget, resulting in a total overtime budget for that fiscal year of \$523,484; and

WHEREAS, in September of 2012 the City Manager asked the Finance Director and Fire Chief to monitor overtime usage for budget tracking purposes; and

WHEREAS, in October of 2012 the City Manager informed the Local 1699 Fire Union President that the Department was over budget due to overtime costs and sought assistance in reducing the overtime costs and held continuous meetings with the Executive Board of Local 1699 on the overtime issue through December and finally informed local 1699 that formal action would have to be taken to resolve the budget excesses since all informal means had proven unsuccessful; and

WHEREAS, at the end of 2012, it became clear that the Fire Department overtime budget would be greatly exceeded for the fiscal year as expenditures through December 31, 2012, had already doubled the yearly overtime budget which extrapolated over the entire year would result in overtime costs of 400% of the amount budgeted; and

WHEREAS, on January 7th and January 14th, the City Manager and other management staff met and conferred with Local 1699 and its attorney representative to discuss the overtime problem and raised the possibility browning out an engine and a layoff reduction in force; and

WHEREAS, at the City Council Meeting of January 15th, 2013, with members of Local 1699 and its management present, the Fire Chief presented a plan to address the overtime budget cost overrun, suggesting the browning out of an engine and commensurate reduction in forces to reduce staff costs and bring the Fire Department expenses in line with the budget; and

WHEREAS, at the City Council Meeting of January 15th, 2013, the Council decided to appoint a task force of two of its members to investigate whether there existed alternatives to the proposed layoffs and thus delayed action on the question of layoffs until the Task Force had time to consider alternatives; and

WHEREAS, the Task Force met on January 18, 2013 and January 29, 2013, in public meetings with Local 1699 members in attendance to consider alternatives and concluded that acceptance of a SAFER Grant and federal monies in excess of \$2 million allowing hiring of 6 additional firefighters in exchange for flexible staffing allowance if overtime budget is exceeded, would adequately address the overtime problem and so advised the entire City Council at its meeting of February 5, 2013; and

WHEREAS, on January 30, 2013, the City Manager and other management staff met with Local 1699 President Steve King and was informed that the Union management would recommend to its membership the acceptance of the Task Force proposal to avoid layoffs; and

WHEREAS, after a meeting between City Manger and Local 1699 management that morning, at the Council Meeting of February 5, 2013, after hearing from members of the public, the City Council decided to adopt the recommendation of the Task Force and thereby forestall layoffs, subject to acceptance of the Task Force recommendation by Local 1699 membership; and

WHEREAS, on March 8, 2013, the City Manager met with Local 1699 management to discuss various issues including effects of layoffs in the event Local 1699 membership rejected the Task Force recommendation; and

WHEREAS, on March 18th 2013, the membership of Local 1699 rejected the Task Force recommendation and the City Manager scheduled a meet and confer meeting regarding the effects of layoffs with Local 1699 and did meet with them on the morning of March 19, 2013; and

WHEREAS, on March 19th 2013, the Fire Chief reported the rejection of the Task Force recommendation by the Local 1699 membership to the City Council and the Council directed the City Manager to proceed with the plan to brown out an engine and reduce staff by layoffs in order to address the Fire Department budget overrun; and

WHEREAS, layoff notices were actually issued on March 20, 2013, in accord with Council direction, scheduling the layoff of 4 firefighters to take place on April 19, 2013; and

WHEREAS, though it appeared that revenues in 2013 were moderately better than expected, the \$7 million loss of RDA funding still left the City with a serious structural deficit, particularly in the area of funding for its CIP budget, meaning that no other money was available to fund the Fire Department overtime cost overrun, making austerity measures within the Fire Department and all City Departments essential to keeping the 2012-2013 expenditures in line with the adopted budget; and

WHEREAS, the ongoing budget issues created a need to keep the Fire Department within budget and the exigency of the situation and budget shortfall continue to exist to this day with no extra money available to make up the Fire Department expected budget shortfall resulting from overtime usage; and

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

1. 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 budget situation facing the City, with the overtime expenditures of the Fire Department expected to greatly exceed the amount of funds budgeted for overtime, is being addressed by the decision to lay off Fire Department personnel and is taken for the purpose of addressing the need to balance the City budget for fiscal year 2012/2013. The Council has considered alternatives to achieving the requisite cost savings but has found none acceptable to the employee bargaining group that will allow the budget to be balanced. As the City is currently attempting to resolve a long term structural deficit and has no current solution to funding its current CIP needs, there is no other money available to cure the Fire Department overtime budget excess except savings from within the Fire Department itself. As such, we see no alternative to the lay offs and in the interests of economy hereby exercise our fundamental management prerogative in taking such action.
3. City management has repeatedly met with and advised Local 1699 that it will consider layoffs as a means to addressing the overtime excess since before the end of 2012. In addition, in this continuous series of meetings, City management has continued to meet and confer with Local 1699 regarding the effects of layoffs and will continue to do so even after the layoffs take place. Because the layoffs are necessary in order to address Fire Department budget overruns for the fiscal year 2012/2013 budget, delay in implementing the layoffs to further meet and confer regarding the effects at this time undermines the important managerial interest in achieving immediate cost savings and would thus undermine the City's right to institute layoffs, a fundamental managerial right. City management has given Local 1699 ample notice of and time to negotiate the effects of the lay offs and has acted and continues to negotiate these effects in good faith.

PASSED AND ADOPTED this ____ day of _____, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney