RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS FOR EXCEPTION TO THE 180-DAY WAIT PERIOD IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 7522.56 AND 21224

WHEREAS, in compliance with Government Code Section 7522.56, the Milpitas City Council must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Joseph Minton, CalPERS ID #5792102002, has retired from the City of Milpitas in the position of Police Officer effective June 1, 2017; and

WHEREAS, Section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is November 28, 2017, without this certification resolution; and

WHEREAS, Section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the Milpitas City Council, the City of Milpitas, and Joseph Minton certify that Joseph Minton has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the Milpitas City Council hereby desires to appoint Joseph Minton to assist in the implementation of Records Management and Computer Aided Dispatching systems related to the Milpitas Police Department and other similar duties in accordance with Government Code Section 21224, effective August 1, 2017; and

WHEREAS, the entire employment agreement between Joseph Minton and the City of Milpitas has been reviewed by this body and is attached hereto as Exhibit A; and

WHEREAS, no matters, issues, terms, and/or conditions related to this employment and appointment have been or will be placed on the consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base monthly salary for this position is $10,189.90 and the hourly equivalent is $58.79 and the minimum base monthly salary for this position is $8,383.18 and the hourly equivalent is $48.36; and

WHEREAS, the hourly rate to be paid to Joseph Minton is $58.79; and

WHEREAS, Joseph Minton has not and will not receive any other benefit, incentive compensation in lieu of benefit or any other form of compensation in addition to this hourly pay rate.
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 certifies the nature of the appointment of Joseph Minton as described herein and detailed in the attached employment agreement and that this appointment is necessary to implement critically needed public safety radio systems, public safety Records Management Systems, a Computer Aided Dispatch project, and other similar duties beginning on August 1, 2017, because the Milpitas City Council has determined that the specialized skills and knowledge possessed by Joseph Minton regarding public safety dispatching systems are necessary to proceed with the upgrades to the City’s Records Management System and Computer Aided Dispatch system.

3. The City Council hereby approves the Resolution to waive the 180-day wait period pursuant to Government Code Section 7522.56.

PASSED AND ADOPTED this ______, day of ______, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:   APPROVED:

_____________________________    _________________________
Mary Lavelle, City Clerk     Rich Tran, Mayor

APPROVED AS TO FORM:

_____________________________
Christopher J. Diaz, City Attorney
EXHIBIT A

RETIRED ANNUITANT EMPLOYMENT AGREEMENT

The Retired Annuitant Employment Agreement ("Agreement") is made by and between the City of Milpitas, a municipal corporation of the State of California ("City") and Joseph Minton, an individual ("Retired Annuitant") as of June 21, 2017 ("Effective Date").

RECITALS

A. WHEREAS, Retired Annuitant previously was employed by the City of Milpitas Police Department in the Communications Dispatch Center for four (4) years and as a Police Officer for twenty-eight (28) years; and

B. WHEREAS, Retired Annuitant retired from City service effective June 1, 2017 and began collecting a retirement pension from the California Public Employees’ Retirement System (CalPERS); and

C. WHEREAS, Retired Annuitant has the necessary qualifications, experience and abilities to assist City in the implementation of emergency services dispatch systems; and

D. WHEREAS, City desires to retain the services of Retired Annuitant in accordance with California Government Code Section 21224 and Retired Annuitant agrees to provide certain services to City under the strict terms and conditions set out in this Agreement.

In consideration of this matter described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties of this Agreement agree as follows:

AGREEMENT

Section 1. Term of Services

The term of this Agreement is from August 1, 2017 and shall automatically expire on June 30, 2018, unless terminated sooner as provided below.

Section 2. Scope of Services

Retired Annuitant agrees to perform the following duties related to the Milpitas Police Department Communications Center:

A. Assist with the implementation of a new Records Management System (RMS)
B. Assist with two separate Computer Aided Dispatch (CAD) projects between the City of Milpitas and the City of Campbell and between the City of Milpitas and the County of Santa Clara.
C. Assist with the procurement of equipment to transition to the Silicon Valley Regional Communication System (SVRCS).
D. Coordinate testing to ensure SVRCS enhances the City of Milpitas’ interoperability capabilities.

Retired Annuitant will report directly to the Police Captain responsible for the Communications Dispatch Center. Retired Annuitant shall comply with all City rules, policies, guidelines, regulations, and laws.
**Section 3. Compensation**

City agrees to compensate Retired Annuitant at $58.79 per hour for all services provided under this Agreement. Payments from City to Retired Annuitant shall be made during the normal payroll cycles of other City employees.

City has reviewed and compared the hourly rate set forth in this Section with other employees performing comparable duties and the hourly rate set forth in this Section does not exceed such other employee’s compensation.

Retired Annuitant agrees and acknowledges that he shall not perform any services under this Agreement exceeding a total of nine hundred sixty (960) hours during any fiscal year (July 1 to June 30). Retired Annuitant shall record hours on a pre-approved timesheet that shall be submitted to the City every two (2) weeks.

There are no other benefits, incentives, compensation in lieu of benefits or other forms of compensation in addition to the hourly pay rate set forth in this Section.

**Section 4. Location**

The primary location for services will be at the following address:

Milpitas Police Department, 1275 N. Milpitas Blvd., Milpitas, California 95035

**Section 5. Compliance with Laws**

This Agreement will be construed in accordance with and governed by the laws in the State of California. In the event that suit shall be brought by any of the parties, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District County, Northern District of California, San Jose, California. Retired Annuitant shall comply with all applicable laws, rules, policies, and guidelines. Retired Annuitant agrees and acknowledges that the State of California and the governing body of the California Public Employees’ Retirement System enact strict laws, regulations and guidelines relating to services provided by “retired annuitants” to public agencies contracting with the California Public Employees’ Retirement System. Retired Annuitant agrees to comply with all applicable laws, regulations and guidelines relating to the services provided under this Agreement.

**Section 6. Termination**

This Agreement may be terminated by either party for convenience by providing written notice to the other party.

**Section 7. Miscellaneous**

a. Retired Annuitant has read each and every part of this Agreement and Retired Annuitant freely and voluntarily has entered into this Agreement. This Agreement is a negotiated document and shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

b. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjusted shall remain in full force and effect.
The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

c. This Agreement, including the exhibits, represents the entire and integrated agreement between City and Retired Annuitant and supersedes all prior negotiations, representations, or agreements, either written or oral.

In witness whereof the parties have duty affixed their signatures on this ____ day of __________, 2017.

Employer: City of Milpitas

____________________________
Steve J. Pangelinan, Acting City Manager

Retired Annuitant

____________________________
Joseph Minton