RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING A TECHNICAL CORRECTION TO RESOLUTION NO. 8668 APPOINTING STEVE PANGE LINAN AS ACTING CITY MANAGER PURSUANT TO GOVERNMENT CODE SECTIONS 7522.56 AND 21224

WHEREAS, the City Council previously appointed Steve Pangelinan as acting City Manager effective May 30, 2017 pursuant to Resolution No. 8668, and this resolution is a technical correction of Resolution No. 8668 solely to reflect the correct section of the Government Code under which the appointment of Steve Pangelinan as an extra-help annuitant is permitted; and

WHEREAS, Government Code Section 21224 permits a CalPERS retiree to be appointed to an extra-help position if the CalPERS retiree has specialized skills needed in performing work of limited duration so long as the employment does not exceed 960 hours in a fiscal year; and

WHEREAS, the current City Manager has been on administrative leave since May 19, 2017; and

WHEREAS, to ensure the continued efficient operation of the City, the City Council desires to retain the services of Steve Pangelinan, a retired member of CalPERS, to serve in an extra-help capacity to perform certain critical duties of the position of City Manager, effective May 30, 2017; and

WHEREAS, Steve Pangelinan has many years of experience in law enforcement with an extensive history in managing City affairs, including having previously served as Chief of Police with the City and currently serving as Interim Chief of Police; and

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

WHEREAS, Steve Pangelinan retired from the City of Milpitas in the position of Police Chief effective December 30, 2016; and

WHEREAS, Section 7522.56(f) requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is June 29, 2017, without this certification resolution; and

WHEREAS, Section 7522.56(f) 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 Steve Pangelinan certify that Steve Pangelinan has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, due to his specialized skills and experience, the Milpitas City Council hereby desires to appoint Steve Pangelinan, a retired annuitant, as an extra-help annuitant to perform the critical duties of the position of City Manager, for the period during which the current City Manager remains on administrative leave, under Government Code Section 21224 effective May 30, 2017; and

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

WHEREAS, it is understood by the City and Steve Pangelinan that he will continue to serve as Interim Chief of Police under a previous appointment by the City pending the recruitment for a permanent appointment; and

WHEREAS, it is understood by the City and Steve Pangelinan that the combined total hours to be served by Steve Pangelinan in any fiscal year, for all positions and for all CalPERS employers combined, shall not exceed the 960-hour limitation set forth in California Government Code Section 7522.56(d); 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 hourly rate to be paid to Steve Pangelinan for the extra-help position to perform critical functions of the City Manager position is $115.38, which is not less than the minimum or in excess of the maximum hourly rate paid to other employees performing comparable duties; and

WHEREAS, Steve Pangelinan 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; and

WHEREAS, the City Council has reviewed a proposed amended employment agreement by and between Steve Pangelinan and the City.

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

Section 1. All facts set forth in the background section of this Resolution are true and correct.

Section 2. The City Council hereby appoints Steve Pangelinan as an extra-help annuitant to perform the critical duties of the City Manager position effective May 30, 2017, for the period during which the current City Manager remains on administrative leave, pursuant to the authority provided under Government Code Section 21224 and 7522.56, to provide the critically-needed, specialized skills necessary to manage the City.

Section 3. The City Council hereby certifies the nature of the appointment of Steve Pangelinan as described herein and detailed in the amended employment agreement approved in connection with the adoption of Resolution No. 8668 and that this appointment is necessary to fill the critically needed position of City Manager by May 30, 2017, because the current City Manager is on administrative leave.

Section 4. The amended employment agreement with Steve Pangelinan, a copy of which is on file with the City Clerk, was previously approved by the City Council in connection with the adoption of Resolution No. 8668, effective May 30, 2017.

Section 5. This resolution is a technical correction of Resolution No. 8668 adopted by the City Council on May 30, 2017 that appointed Steve Pangelinan as acting City Manager.

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