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PERB CASE NO. SF-IM-269-M

FACTFINDING PROCEEDINGS PURSUANT TO

THE MEYERS-MILIAS-BROWN ACT

CITY OF MILPITAS and UNITED PUBLIC EMPLOYEES, LOCAL 792, LIUNA	NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS September 8, 2025

FACTFINDING PANEL

Factfinder for the Union:	Factfinder for the Employer:	Neutral Factfinder Panel Chair:
Ryan Heron Assistant Business Manager UPEC Local 792, LiUNA	Kelli Parmley Human Resources Director City of Milpitas	Jeff Berk Arbitrator

APPEARANCES

For the Union:	For the Employer:
Timothy Davis Mastagni Holstedt 1921 I Street Sacramento, CA 95811	Richard Bolanos Partner, Liebert Cassidy Whitmore 135 Main Street, 7th Floor San Francisco, CA 94

INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the Meyers-Milias-Brown Act (MMBA) Government Code section 3505.4 between the City of Milpitas (City, Employer) and the Milpitas United Public Employees, Local 792, Mid-Management & Confidential Unit (MidCon, Union).

In accordance with Government Code section 3505.4(b), the parties mutually selected Jeff Berk as the Neutral Factfinder Panel Chair. The City appointed Kelli Parmley, Human Resources Director, as the Panel Member to represent the Employer. The Union designated Ryan Heron, Assistant Business Manager, as the Panel Member to represent MidCon in the factfinding proceeding.

The factfinding hearing was held on August 25, 2025. The parties had full opportunity to present and submit relevant exhibits and evidence and discuss and argue the issues in dispute. The parties agreed all the procedural requirements of impasse had been met, and the dispute was properly before the Factfinding Panel to issue their recommendations to resolve the impasse. After the hearing concluded, the dispute was submitted to the Factfinding Panel for their final recommendations.

EXECUTIVE SUMMARY

MidCon is comprised mostly of high-level managers who work in finance, information technology, community development, human resources, and public safety administration. This is the group of employees that the City should look to as its future leaders and department heads.

MidCon's perspective is that, following a request made by the City to all bargaining groups, it voluntarily gave up 4% in salary increases they were due in 2021 and 2022 to help the

City with COVID-related budget issues. Other bargaining groups refused. As a result, the Union asserts that it has fallen behind given the increases the other units received. The Union illustrated compaction issues between it and the Professional and Technical Group (ProTech) unit. The compaction issues are significant because many in the MidCon unit supervise employees in the ProTech unit. This raises an important question: Why would City employees want to seek a promotion into the MidCon unit and take on more responsibility if there is little or no financial incentive to do so?

As a result of the above, MidCon's seeks a 7% salary increase in addition to the 3% offered by the City, along with other proposals such as longevity pay, and increases in accruals and leaves.

From the City's perspective, it values this unit and sincerely recognizes the important services its members provide. However, given the structural deficit the City faces, its team cannot agree to any ongoing costs beyond the 3%. As a result, the parties are far apart in their respective positions.

As discussed and explained below, this Recommendation is for a modest 2% salary increase above the 3% proposed by the City and to approve longevity pay.

It is common for a factfinding recommendation to result in a "majority 2-1 vote," with either the union panel member or the city panel member agreeing with the recommendation of the neutral panel member. Here, neither the Union nor the City agreed to the recommendation proposed below by the neutral and instead have submitted their own recommendations.

The City has invested in the high-level MidCon managers and looks to them to as its future leaders. It does not want to lose them. While respectfully recognizing the economic hardship the City faces, the neutral believes it is in the City's short- and long-term best interests to acknowledge the work, dedication and sacrifice of these high-level managers and support the recommendation.

GOVERNING STATUTE - FACTFINDING CRITERIA

Government Code Section 3505.4 (d) sets forth the criteria to be used in the factfinding process and states that in arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

(1) State and federal laws that are applicable to the employer.

(2) Local rules, regulations or ordinances.

(3) Stipulations of the parties.

(4) The interests and welfare of the public and the financial ability of the public agency.

(5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.

(6) The consumer price index for goods and services, commonly known as the cost of living.

(7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(8) Any other facts not limited paragraphs (1) to (7), which are traditionally taken into consideration in making the findings and recommendations.

ISSUES AT IMPASSE

MIDCON UNIT	UNION PROPOSALS	CITY PROPOSALS
Salary – Cost of Living Adjustment	10% effective July 1, 2025	3% effective July 1, 2025 And $2,450
Longevity Pay	1% at 9 years of service 3% at 19 years of service	City deferred
Vacation Accrual	Increase current cap from 260 hours to 300 hours	City deferred
Management Leave	Increase exempt employees from 40 hours to 130 hours	City deferred
Holidays	Allow salaried employees required to work a holiday to receive time off to use on a later day	City deferred
Compaction Study	City to prepare comparison of total comp in MidCon unit to those they supervise in ProTech	City deferred

SUMMARY OF FACTS

MidCon

MidCon comprises 55 City employees among 21 classifications who are represented by United Public Employees Local 792, LiUNA. The bargaining unit employees work extremely important jobs including such positions as:

- Economic Development Coordinator
- Emergency Services Coordinator
- Information Technology Manager
- Digital Media Analyst
- Purchasing Agent
- Senior Accountant
- Environmental Compliance Specialist

- Civil Engineer
- Senior Planner
- Crime Analyst

History of the Parties' Labor Negotiations

In July 2019, the parties executed a four-year agreement with a term ending June 30, 2023. Midway through the contract term, the City approached the bargaining units and requested concessions to assist the City with potential budget issues coming out of COVID. In March 2021, MidCon agreed to the requested concessions and the parties executed a Side Letter eliminating a 3% COLA for 2021 and reducing a COLA for 2022 from 3% to 2%. Thus, MidCon gave up salary of 4%. The parties extended the contract to June 30, 2025.

Police and Fire also agreed to concessions and were rewarded in their next contracts. The other two Units, Milpitas Employee Association (MEA) and ProTech refused to make concessions and maintained their scheduled salary increases.

During the current bargaining cycle, MidCon was offered the same 3% COLA as the other two non-safety groups, which did not give up their COLAs. Police and Fire each received 5% and received significantly larger COLAs for 2024 (6.5% and 11%), respectively.

The parties participated in bargaining in early 2025, but eventually reached impasse. The Union provided the City with its final offer on June 17, 2025.

Comparing Increases by Year and Bargaining Unit

The Union provided a chart that showed the salary increases from 2021-2025 for the five units. The chart showed that MidCon received about 7% less than the other groups over that period. The chart shows it as a 10% difference, but that number did not include the 3% MidCon was offered. See the chart attached as Exhibit 1.

The City provided a chart that showed the salary adjustments from 2018 - 2025, in which Mid Con's average salary increase was about 1% lower than the other four units. The Union asserted, however, that the 1% figure is misleading and low because it failed to account for the impact of having received smaller COLAs over time. See the chart attached as Exhibit 2.

Structural Deficit

The City's and Union's respective positions as to the structural deficit are stated below.

THE CITY'S POSITION

The City stated that Milpitas has achieved fiscal discipline by reducing its projected structural deficit by 43% from $28.5 million to $16.3 million over five years through strategic cost management and service reductions. Under the City's current offer of 3% salary increase plus a $2,450 one-time payment, the City maintains a balanced FY 2025-26 budget with structural deficits delayed until FY 2027-28. As demonstrated in Exhibit 3, the MidCon Last Best and Final Offer would create an immediate $1.8 million annual deficit in FY 2025-26, accelerate structural deficits to begin in FY 2026-27, and result in a 47.1% structural deficit increase over five years to $24.0 million –fundamentally undermining the City's fiscal recovery and putting the City in a position to reduce public services and lay off employees to balance the budget.

THE UNION'S POSITION

The Union responded by stating that it does not dispute the reality of the City's financial condition. The Union also agrees that the City need not use one-time money to fund MidCon's compensation requests. The unit asserts that the City has the money within its current budget to fund additional ongoing increases without adding to the structural deficit.

The Union requested the assistance of Laura Gill, a compensation analyst with Mastagni Holdstedt, in reviewing the financial condition of the City of Milpitas to determine the City's ability to pay for the Union's proposals. Ms. Gill is a retired local government administrator with over 20 years of California local government management experience, including ten years of service as City Manager for the City of Elk Grove. Prior to relocating to California, Ms. Gill served the City of Durham, North Carolina in various roles over 15 years, including seven years as Budget and Management Services Director.

Review of City's Financial Condition

In her review of the City's financial condition from FY 2018 to FY 2025, Ms. Gill determined that the City has recovered from the economic disruption brought by the 2020 pandemic. The review also highlighted the following items that point to the City's ability to pay:

- **General Fund Budget versus Actual Revenues:** The audited results for the General Fund over the past three years (FY 2022 to FY 2024) reveal that the City's actual revenues exceed the final budgeted revenues in FY 2023 and FY 2024. The actual revenues exceed the original budget in all three years. Ms. Gill's projection of General Fund revenues at June 30, 2025, based on the City's third quarter budget report presented to the City Council on June 17, 2025, indicates that this trend will likely continue for FY 2025. The trend of actual revenues exceeding budgeted revenues points to a routine underestimation of revenues.

	ORIGINAL BUDGET	FINAL BUDGET	ACTUAL AMOUNTS
FY 21/22	$ 104,226,717	$ 114,036,008	$ 112,091,720
FY 22/23	$ 110,458,342	$ 121,009,249	$ 126,290,558
FY 23/24	$ 119,001,243	$ 133,431,823	$ 134,109,832
FY 24/25 (MH proj)	$ 126,208,236	$ 128,187,389	$ 133,364,204

- **General Fund Budget versus Actual Expenditures:** The audited results for the General Fund over the past three years (FY 2022 to FY 2024) reveal that the City's actual expenditures fall below both the original appropriations and the final appropriations budgeted during the three year period. Ms. Gill's projection of General Fund expenditures at June 30, 2025, based on the City's third quarter budget report presented to the City Council on June 17, 2025, indicates that this trend will likely continue for FY 2025. The trend of actual expenditures falling below budgeted appropriations points to a routine overestimation of expenditures. (This trend exists despite the City's practice of deducting 3% to 4% of the General Fund salary and benefits budget to account for vacancy savings.)

	ORIGINAL BUDGET	FINAL BUDGET	ACTUAL AMOUNTS
FY 21/22	$ 110,439,066	$ 117,721,392	$ 114,370,424
FY 22/23	$ 117,285,110	$ 126,090,827	$ 120,974,193
FY 23/24	$ 126,288,850	$ 131,670,252	$ 124,298,584
FY 24/25 (MH proj)	$ 135,130,055	$ 142,222,845	$ 135,256,118

- **Fund Balance Changes:** The audited results for the General Fund over the past three years (FY 2022 to FY 2024) reveal that the fund balance in the City's General Fund has increased over the period. In other words, the City budgets for a budget deficit but ends the year with a budget surplus. Ms. Gill's projection of

General Fund revenues and expenditures at June 30, 2025 indicates that fund balance will increase. (The projected FY 2025 result assumes that the General Fund will receive 100% of the transfers from other funds.)

Net Change in Fund Balance			
	ORIGINAL BUDGET	FINAL BUDGET	ACTUAL AMOUNTS
FY 21/22	$ (8)	$ (1,984,858)	$ 1,589,343
FY 22/23	$ (7)	$ (1,654,817)	$ 3,216,768
FY 23/24	$ (2,382,968)	$ 1,352,376	$ 9,406,797
FY 24/25 (MH projection)	$ (3,788,742)	$ (8,902,379)	$ 3,241,163

Note: Actuals exclude adjustments for encumbrance expenditures

- **Unrestricted Net Position in Internal Service Fund:** Internal service funds are used to account for citywide services that are charged to individual departments. Healthy levels of unrestricted net position in an internal service fund may indicate that the City is overcharging its departments for those services, as the goal of most internal service funds is to break even rather than build a surplus. The audited unrestricted net position in the City's Equipment Management Fund has grown from $10.8 million in FY 2017-18 to $16 million in FY 2023-24. While City Management indicates that the City will embark on a more aggressive equipment replacement plan, there is no plan currently in place. Without a plan in place, it appears that departments have been overcharged for equipment management services.

Taken together, we conclude that the City of Milpitas has the ability to pay for the Union's proposals without causing harm to the City's financial position. City Management argues that it faces a structural deficit, but its financial results indicate that its projections may be overly conservative.

Funding Compensation Increases

The City of Milpitas maintains that it is unable to fund the compensation increases requested by the Mid-Management/Confidential Unit without increasing its appropriation from reserves. In addition to refining its revenue and expenditure estimates and adjusting internal service fees charged to departments, compensation adjustments can be funded within the FY 2025-26 Budget through increasing its assumed vacancy rate, ensuring that the enterprise funds pay their share of the compensation increases, and adjusting user fees to recover the costs associated with the compensation increases.

- **Increase to assumed vacancy rate**

The General Fund budget for the City of Milpitas includes the following adjustments to salaries and benefits in the non-departmental set of accounts:

City of Milpitas		
General Fund Non-Departmental Accounts		
Personnel Services Line-Items		
	FY 2023-24	**FY 2024-25**
Leave Cashout	$ 650,000	$ 650,003
PERS	$ 30,000	$ 30,000
Group Insurance	$ 20,000	$ 27,810
Unemployment	$ 100,000	$ 87,000
MOU Contractual Agreements	$ 1,061,130	$ 1,203,883
Adjustments- Payroll	$ (2,939,773)	$ (4,090,732)
Total	**$ (1,078,643)**	**$ (2,092,036)**
Assumed vacancy rate for adjustment	3.10%	4.00%
Page in budget document	p. 311	p. 299

The City of Milpitas ended FY 2023-24 with an audited net increase of $11.7 million in the General Fund. If the City had not included the -$2.9 million in vacancy savings, the net increase in fund balance could have been as much as $13.8 million.

The detail for the FY 2025-26 General Fund non-department budget remains unavailable. However, the General Fund summary of expenditures states that the budget for non-departmental salaries and benefits is -$2,110,849. An estimate for contractual agreements and payroll adjustment can be derived with the following assumptions:

- The adjustment increased at the same rate as the total amount of salaries and benefits shown in the General Fund between FY 2024-25 and FY 2025-26 (6.67%)
- The FY 2025 -26 amounts for leave cashout, PERS, Group Insurance, and Unemployment remain at FY 2024-25 levels
- The MOU contractual amount is adjusted to match the budgeted total of ($2.1 million)

The estimate is provided in the table below:

City of Milpitas			
General Fund Non-Departmental Accounts			
Personnel Services Line-Item Estimate for FY 2025-26			
	FY 2025-26		
Leave Cashout	$ 650,003		
PERS	$ 30,000		
Group Insurance	$ 27,810		
Unemployment	$ 87,000		
MOU Contractual Agreements	$ 1,465,961	adjust to match total	
Adjustments- Payroll	$ (4,371,623)	assumes 6.68% increase	
Total	**$ (2,110,849)**		
Total - Financial Information page 22	$ (2,110,849)		

Based on this calculation, a 1% increase to the vacancy rate equals $1,092,906. The City could increase the vacancy rate assumption and transfer the appropriation to fund the compensation request.

- **Increases to Indirect Cost Recovery and User Fees**

City departments funded through the General Fund support activities in the Water Fund and the Sewer Fund. The Finance Department maintains an indirect cost plan to capture the cost of providing administrative support so the transfers from the two enterprise funds pay their share of those costs. Many Mid-Con Unit members provide support that is recognized in the indirect cost plan, and the cost of compensation increases would be captured in the annual update.

- **Increase to User Fees**

  Some Mid-Con Unit members work in departments that generate user fees, The cost of compensation increases to these employees should be recovered in the next user fee update.

Basis for and Cost of MidCon Six Proposals

1. SALARY INCREASE

MidCon proposes a 10% salary increase effective July 1, 2025. To be clear, the unit is asking for 7% over the 3% amount the City offered. The Union asserts that the increase is justified based on (1) the larger increases received by the other units (See Exhibits 1 and 2), (2) that MidCon agreed to the concessions the City requested during COVID and as a result not only lost the increases but the compounding over time; and (3) to address the significant compaction that has occurred over the last several years between many of the MidCon managers and employees they supervise in the ProTech Unit.

The parties agree that a 1% salary increase for the unit costs $120,000, which is a very small percentage of the City's budget.

2. LONGEVITY PAY

MidCon proposes a 1% increase after nine years, an additional 1% at 14 years, and an additional 1% after 19 years. The Union's basis for its request is that it is the only unit in the City without longevity pay. This furthers the issue of compaction with those in the ProTech unit, and MidCon's proposal is identical to what ProTech and MEA currently receive.

MidCon estimates the cost at $29,081 per year. The City's estimate is close at $34,373.

3. VACATION ACCRUAL

MidCon proposes increasing its vacation accrual from the current cap of 260 hours to 300 hours. When an employee reaches the cap, they are required to cash out the excess. The caps in the other units are 480 for Fire, 336 for Police, and 300 for ProTech and MEA. MidCon asks to be treated the same as the other non-safety units.

The Union asserts that there is minimal additional cost to the City to make this change. However, the City maintains that there is a cost of $247,233.

The City asserts the Union claim of no additional cost is incorrect. The City's $274,233 annual estimate, calculated by multiplying the estimated average hourly pay by the total number of Union employees by the Union proposal increase of forty hours, reflects two tangible costs: (1) operational expenses from overtime and/or productivity loss from allocating exempt hours needed to maintain service levels during increased leave usage, and (2) financial reporting obligations under Governmental Accounting Standards Board (GASB) 101, which requires recognizing vacation leave as a balance sheet liability including associated salary-based taxes and economic benefits. Increasing the cap by 15.4% per Union employee expands this mandatory liability. The City's 260-hour cap provides adequate flexibility while avoiding unsustainable costs during our structural deficit recovery.

4. MANAGEMENT LEAVE

MidCon exempt employees receive 40 hours of management leave per year. The unit is proposing an increase to 130 hours, which is the amount unrepresented exempt employees receive.

The Union asserts that there is no additional cost to the City to make this change. However, the City maintains that there is a cost of $617,025.

The City asserts the Union claim of no additional cost is incorrect. The City's $617,025 annual estimate, calculated by multiplying the estimated average hourly pay by the total number of Union employees by the Union proposal increase of ninety hours, reflects operational expenses from overtime and/or productivity loss from allocating additional exempt hours needed to maintain service levels during increased leave usage. While management leave cannot be cashed out, eliminating the financial reporting liability component, the operational impact remains substantial as departments must cover essential functions through overtime for non-exempt staff or additional hours from remaining exempt employees. Increasing management leave by 225% per Union employee creates significant staffing coverage challenges and productivity losses. The City maintains its position that the current 40-hour management leave allocation provides adequate flexibility while avoiding unsustainable operational costs during our structural deficit recovery.

The Union argues that there is no cost to the City from increasing management leave. MidCon employees must use it or lose it. When a MidCon employee is out of work on leave, the City does not typically appoint employees to fill their roles on an interim or out of class basis in their absence. Their work is there for them upon their return.

5. HOLIDAYS

MidCon includes both salaried and hourly employees. It proposes that salaried employees who are required to work a recognized holiday receive time off to use on a later day. MidCon asserts that all other units receive some type of holiday benefit. For example, holiday time worked for ProTech employees and MidCon hourly employees is considered overtime.

The City estimated the cost at about $71,930. MidCon did not provide a cost estimate.

The City asserts that the Union proposal for a holiday time-off bank lacked specificity regarding which employees would receive this benefit, prompting the City to assume it applied to non-exempt Union employees since exempt employees already possess inherent scheduling flexibility to adjust their work schedules around holiday requirements without formal banking mechanisms. The City's $71,930 annual cost estimate reflects the administrative burden and productivity impacts of managing formal holiday banks for non-exempt staff, when current overtime compensation already provides appropriate holiday compensation. Creating this structured banking system would introduce unnecessary administrative complexity and costs while duplicating benefits that exempt employees can already achieve through schedule flexibility, adding financial burden during our structural deficit recovery without clear operational justification. Given that the City has allowed for flexible scheduling for exempt employees this is the simplest and most effective way to address the issue of exempt emploees who work holidays.

6. COMPACTION STUDY

MidCon proposes that the City prepare a study of total compensation for all classifications in the unit compared to the compensation of the employees they supervise.

Neither party submitted a cost estimate for this proposal.

Compensation Study

At Factfinding, the Union submitted a compensation study. This study had not been previously shared with the City. It is quite voluminous and detailed, and its contents have not been vetted by the City. The study surveyed the compensation of nine local cities. It is also important to note that the parties have not agreed on comparator agencies. The City objected to the study for these reasons.

Looking at what employees are paid at comparable agencies for doing similar duties is one of the statutory criteria listed above that factfinders can consider. Although it appears to provide some support that MidCon employees may be below market in total compensation, the neutral panel member believes that the study should be given little, if any, weight for the reasons stated above.

The Union asserts that addressing compensation equity issues internal to the City of Milpitas, such as longevity and cost of living adjustments, will also address competitiveness within the regional market.

MIDCON'S POSITION

MidCon made concessions when the City asked it to help with COVID-related budget issues. In return, it reasonably expected to be made whole to some extent in the near term. That has not happened. This has significantly impacted morale in the unit. The Union provided an example in which a MidCon Senior Planner salary is $163,651 and a ProTech Associate Planner (who is supervised by that MidCon Senior Planner) has a salary $156,473. The difference in salary is less than 5%. With ProTech employees having a longevity pay bonus, this compaction amount is potentially even more significant.

THE CITY'S POSITION

The City recognizes the very important role the employees in the MidCon unit play, both now and in the future. However, given the City's structural deficit, it cannot provide anything further as to ongoing costs, other than the 3% COLA that is already in the budget. The City has also offered a one-time lump sum payment of $2,450, accepted by the other two bargaining units, as something that would not impact the structural deficit and still provide employees approximately 2% additional compensation during this 1-year contract.

NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION

The Chair understands and appreciates the respective positions of the parties. The Chair believes that this is an important moment for the City to thoughtfully consider the unusual bargaining history here (MidCon's agreement to make the requested concessions on salary increases during a pandemic). MidCon represents the future leaders and department heads of this City and its members provide significant value to the organization. They represent "the plan" in succession planning. This is a relatively small city and having long-term employees with institutional knowledge is therefore important and valuable.

NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS

1. Salary Increase – 2%

The Chair is mindful of the City's financial position. However, given the discussion above, a 2% salary increase over the 3% already offered by the City appears appropriate. With this recommended increase, the unit is getting back one half of the salary increase it gave up when the City asked them for help during the pandemic. The cost is only about 1/10 of 1% of the City's budget.

2. Longevity Pay – 1% increase after nine years, an additional 1% at 14 years, and an additional 1% after 19 years.

This unit is the only group without this benefit. It is in the City's best interest to provide longevity pay and the increased cost is minimal.

3. Vacation Accrual – Cap of 300 hours

This does not appear to be a big ask and it brings the unit in line, albeit at the bottom end, with the other units.

4. Management Leave – Unchanged

5. Holidays – Allow Flex Time

If a MidCon employee is required to work a holiday, they should be allowed to "flex" that day and take a different day off.

6. Compaction Study – Unchanged

Compaction is an important concern. Although the Chair does not recommend completing a study at this time, the compaction issue would be at least somewhat addressed by the City's adoption of (1) and (2), above.

PER GOVERNMENT CODE SECTION 3505.5(a), THIS REPORT SHALL BECOME PUBLICLY AVAILABLE WITHIN 10 DAYS AFTER RECEIPT.

DATED: September 8, 2025

Jeffrey L. Berk
Neutral Panel Chair

Exhibit 1 – Union – Increases by year and bargaining unit.

INCREASES BY YEAR & BARGAINING UNIT

	Fire	Police	MEA	ProTech	MidCon
2021	0%	0%	3%	3%	0%
2022	0%	2.5%	3%	3%	2%
2023	2%	2.5%	4%	4%	2%
2024	11%	6.5%	4%	4%	3%
2025	5%	5%	3%	3%	-
Totals	18%	17%	17%	17%	7%

Exhibit 2 – City - Salary Adjustments By Bargaining Unit Over an 8-year Period

Salary Adjustments By Bargaining Unit Over 8-Year Period

	Bargaining Unit				
Calendar Year	IAFF	ProTech	MEA	MidCon	MPOA
2018	5.00%	3.00%	3.00%	3.00%	3.50%
2019	4.00%	5.00%	3.00%	5.00%	4.00%
2020	4.00%	4.00%	6.00%	4.00%	4.50%
2021	0.00%	3.00%	3.00%	0.00%	0.00%
2022	0.00%	3.00%	3.00%	2.00%	2.50%
2023	2.00%	4.00%	4.00%	2.00%	2.50%
2024	11.00%	4.00%	4.00%	3.00%	9.00%
2025*	5.00%	3.00%	3.00%	3.00%	5.00%
Average	**3.88%**	**3.63%**	**3.63%**	**2.75%**	**3.88%**
Median	**4.00%**	**4.00%**	**3.00%**	**3.00%**	**3.50%**

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Exhibit 3 – City – MidCon Last, Best, and Final Offer (LBFO) June 17, 2025

Mid-Con Last, Best and Final Offer (LBFO) June 17, 2025

	Description	Estimated Recurring Economic Impact (Year One)
Term	One Year – July 1, 2025 to June 30, 2026	Tentative Agreement
Salary Adjustment	10% salary increase effective July 1, 2025	$ 1,200,000
Vacation Accrual	Increase annual accrual cap and cash-out from 260 hours to 300 hours.	274,233
Management Leave	Increase management leave bank from 40 to 130 hours.	617,025
Holidays	Add holiday time-off bank for hours worked on a holiday.	71,930 *
Compaction	City to study compaction issues during term of the MOU.	?
Longevity Pay	Adopt same longevity plan enjoyed by MEA and ProTech	34,373
	Estimated Total Cost of Mid-Con LBFO	***$ 2,197,561***
	Reduce to Reflect Already Budgeted Increase	**(360,000)**
	Net of 3% in FY 2025-26 Adopted, Amended Operating Budget	***$ 1,837,581***
	* Assumes Three (3) Recreational Services and Thirteen (13) Public Works totaling Sixteen (16) Mid-Con Employees for a 5-Day Holiday Bank Each	

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UNION'S DISSENT

The Union files this dissent primarily on the grounds that we strongly believe that a 5% cost of living adjustment is not enough to address the serious inequity and compaction issues faced by the MidCon bargaining unit. The inadequacy of the cost-of-living adjustment is by far and away the most significant issue the Union has with the report's recommendations.

A 5% increase would still leave MidCon at 5% less in total cost of living adjustments than all other represented employees within the City of Milpitas, including the two other LIUNA represented non-safety units within the City, MEA and Protech.
MidCon members voluntarily opened their contract in 2021 and gave up 4% in wage increases when the City came to the MidCon unit asking for concessions at the height of the COVID-19 pandemic. The other two bargaining units who gave up their raises, the Police and Fire units, were rewarded handsomely in their most recent MOU negotiations for having done so. MidCon deserves to be recognized for their sacrifice and made whole as well. A 10% increase would not be a windfall for MidCon employees, it would simply be bringing MidCon into alignment with the other City bargaining units over the past five years.

Regarding the City's ability to pay argument, the Union feels strongly that the testimony from Ms. Gill shows very clearly that the City can afford to provide MidCon with our request for a 10% salary increase. The Union understands that the City does not wish to deficit spend or allocate any one-time money to ongoing expenditures in any way that would deepen the City's claimed structural deficit. The Union wants to make it clear that we are not asking the City to deficit spend. The Union feels very strongly that our financial analysis of the City as presented by Ms. Gill clearly shows that the City has the funds available within its current budget to provide the 10% increase that is desperately needed for MidCon employees to rectify the past several years of MidCon receiving less than any other City bargaining unit. An additional 5% salary increase would amount to an additional $600,000 in salary costs.

The trends of the past several years show that the City regularly overestimates expenditures underestimates revenues in its budgeting practices, with a large part of the expenditure savings coming from vacant budgeted positions that do not get filled. This trend is likely to continue this year and those salary savings are likely to increase, as the City has instituted a hiring freeze on vacant budgeted positions that has been in effect for most of 2025.

Finally, the compaction concerns that have arisen as a result of the positions MidCon directly leads and supervises receiving an additional 7% in wage increases beyond what Midcon has received have created an untenable situation that needs to be addressed. The Union agrees that a compaction study would no longer be necessary if MidCon got the wage increases that would being this unit into line with what the ProTech unit has received over the last five years.
Respectfully submitted on behalf of the LIUNA 792 City of Milpitas Mid-Management / Confidential bargaining unit,

Ryan Heron
Labor Relations Representative,
LIUNA 792

CITY'S DISSENT

The City Values Its Employees

The City of Milpitas values all its employees and bargaining units and recognizes all the positive service contributions MidCon provides. The Fact-Finder report was favorable to the City in that it recognized the City could not afford to grant MidCon an ongoing 10% cost-of-living increase. While the Fact-Finder recommended that MidCon reduce its request by 5% and that the City increase its offer by 2%, the City's current offer of 3% for FY 2025-26, plus the $2,450 one-time bonus, results in an economic benefit to Union employees of approximately 5% – effectively meeting the Fact-Finder's recommendation for total compensation impact.
The City has always participated in good faith bargaining, and any prior year cost-of-living increases or deferrals were properly negotiated, mutually agreed to by both parties, and approved by MidCon members. However, the City cannot grant the 10% cost-of-living increase along with other fringe benefits without engaging in deficit spending that would undermine years of fiscal recovery efforts.

City Panel Member (Human Resources Director) Dissent From Panel Chair Recommendations

The City respectfully dissents from the Panel Chair's recommendations. The City submitted and presented substantial and compelling data regarding the structural deficit and the Milpitas City Council (Council) commitment to end deficit spending and strategically engage in fiscal measures to reduce or eliminate its structural deficit in future years.

While the Chair's recommendations reflect thoughtful consideration of internal equity issues, the City believes greater weight should have been given to the extensive budgetary analysis provided by the Milpitas Finance Director explaining the structural deficit and the City strategic plan for addressing the deficit in future fiscal years. The recommendations do not fully account for the impact the recommended 5% salary increase will have on that multi-year strategic fiscal plan. The primary justification for the recommended salary increase is that it will allow the MidCon unit to partially recover salary concessions offered during the pandemic that caused MidCon to fall behind the other bargaining units. While internal parity is generally relevant to evaluating proposals in fact-finding, it is insufficient on its own to overcome the specific fiscal realities supporting the City's proposal for dealing with its structural deficit. Moreover, the Union did not argue, and the Chair did not find, any agreement between the City and MidCon that past bargaining concessions would be returned by the City in future negotiations.

The City was clear at the outset of negotiations with all three bargaining units that a one-year extension agreement with an already budgeted 3% COLA was a fair offer, given the needed time for the City Manager, with City Council direction, to engage in a series of strategic fiscal initiatives in the first half of the fiscal year to identify and propose strategic fiscal measures that would reduce the structural deficit. Additionally, current broader global economic impacts create greater uncertainty that would make deficit spending beyond the 3% fiscally irresponsible. While the Chair's recommendations reflect careful deliberation, they do not sufficiently account for the impact they will have on the City's strategic plan for addressing its structural deficit going forward, and for that reason must be respectfully declined.

The City's final offer to extend the labor agreement for one year with a 3% salary increase, a one-time cash payment and maintenance of all economic benefits for the term of the extension, is a fair and responsible proposal given the City's fiscal condition. Notably, two other bargaining units have recently accepted this same offer, recognizing its fairness and the City's fiscal constraints.

Response to Union's Financial Analysis

The City Council has been transparent and resolute in its position that ongoing expenses must be reconciled and resolved with ongoing dollars. That message was made clear in the direction provided at its February 18, 2025 Study Session, which included specific City Council directives to:

- **Integrate Community Feedback and Align Spending with Community Priorities**: Compare current spending to community preferences to ensure alignment with survey priorities and incorporate community service survey findings into budget planning.
- **Strengthen Marketing Strategy and Enhance Revenue Initiatives**: Promote Milpitas as a business and tourist destination, propose current business tax reform, and prepare for a 2026 ballot measure.
- **Reduce Expenditures**: Address structural deficit due to potential economic factors and balance the FY 2025-26 Proposed Operating Budget without reserves.

Critical Flaws in the Union's Financial Assessment

The Union's financial analysis by former City Manager Laura Gill, while extensive, appears to be based on incomplete information regarding Milpitas' specific fiscal circumstances, and does not fully account for the City's current budgetary realities and municipal finance constraints. Importantly, Ms. Gill's review was based on outdated numbers and did not reflect the FY 2025-26 latest adopted, amended budget (June 3, 2025) which provides a more current view of the City's financial position.

By contrast, the City relies on HdL Companies (HdL), a nationally recognized industry leader in revenue management and economic forecasting that serves over 900 government agencies across 12 states, and has maintained a 99.6% client retention rate since its founding in 1983. For its annual operating budget development, the City utilizes expert forecasting from an HdL team of seasoned consultants with decades of collective experience in California tax forecasting. HdL provides the City with quarterly and annual predictive economic reports specifically tailored to Milpitas' residential, commercial, and industrial tax base, while also vetting Santa Clara County's property tax predictions. This subject matter expert, professional analysis covers City property, sales, and business tax revenues that comprise nearly $89 million – roughly 35% of Milpitas' $253.8 million FY 2025-26 estimated revenues.

Additionally, the City employs other specialized revenue experts including Avenue Insights & Analytics for transient occupancy tax administration and ClearSource as the service provider for cost recovery fee studies to ensure City cost recovery calculations are accurate and stay within State of California regulatory limits. Enterprise fund revenues ($77.5 million – roughly 30.5% of total revenues) for water, sewer, and housing services are legally restricted to those specific purposes and cannot be diverted to general fund operations. Combined, these restricted and regulated revenue streams represent another approximately 34.3% of the City's total estimated revenues, significantly limiting the City's financial flexibility beyond what Ms. Gill's analysis recognized.

Prudent Budgeting Is Not Evidence of Hidden Capacity: The Union incorrectly characterizes the City's fiscally prudent budgeting practices as evidence of available funds for additional spending. The City's consistent pattern of actual revenues exceeding budgeted amounts and actual expenditures falling below appropriations reflects careful fiscal management during uncertain economic times, not hidden capacity for salary increases. These conservative estimates serve as essential financial safeguards, particularly given the City's ongoing structural deficit challenges and the volatile economic environment.
Municipal governments must maintain fiscal discipline through prudent revenue estimates and expenditure planning to protect against economic downturns, unexpected emergencies, and revenue shortfalls. The Union's suggestion to reduce these safeguards to fund salary increases would expose the City to significant financial risk and potential service disruptions.

Vacancy Savings Cannot Fund Permanent Increases: The Union's proposal to increase vacancy rate assumptions as a funding mechanism is inherently unsound and represents a form of double spending public funds. Vacancy savings represent temporary gaps in staffing that the City must eventually fill to maintain service levels. Using these temporary savings to fund permanent salary increases essentially commits the same budget dollars twice – once for the vacant position that will eventually be filled and again for the ongoing salary increases. This creates an unsustainable fiscal structure where ongoing personnel costs exceed reliable revenue streams and violates basic principles of municipal finance by double-counting available funds. This approach would accelerate rather than resolve structural deficit issues by creating competing claims on the same revenue source.

Incomplete Cost Analysis: The Union's analysis fails to account for the compounding effect of salary increases on pension obligations, retiree health benefits, workers' compensation costs, and other salary-driven expenses. The true cost of the Union's proposals extends far beyond the immediate salary impact and would substantially strain the City's long-term fiscal position. These hidden costs can represent an additional 25-40% above base salary costs over time.

Equipment Fund Mischaracterization: While the Union correctly notes growth in the Equipment Management Fund, these reserves are designated for essential infrastructure replacement and cannot be diverted to fund ongoing operational expenses without compromising the City's ability to maintain critical equipment and facilities. The Equipment Replacement Fund fluctuates from time to time based on operational needs, and equipment replacement is not optional – it is a necessary operational expense that has been deferred, not eliminated. The Interim City Manager's May 15, 2025 Employee Town Hall was transparent regarding the need for lease-buy cost analysis for fleet management, addressing deferred maintenance and the appropriate use of funds to match the life of assets. As an example of these necessary expenditures, $1.85 million from the Equipment Replacement Fund was allocated this year to replace the Fire Department's Urban Search & Rescue Vehicle, which has needed replacement for several years, with another $3.3 million used to support other City Department of Public Works equipment needs.

The Reality of Milpitas' Structural Deficit

The City has achieved significant fiscal discipline by reducing its projected structural deficit by 43% from $28.5 million to $16.3 million over five years through strategic cost management and service reductions. Under the City's current offer of a 3% salary increase plus a $2,450 one-time payment (which equates to approximately 2% increase per Union employee, providing them a 5% total increase for the one year to give the City time to complete its fiscal strategy work), the City maintains a balanced FY 2025-26 budget with structural deficits delayed until FY 2027-28. Granting MidCon a 10% cost-of-living increase would raise the structural budget deficit from $16.3 million to over $24 million – a decision the City cannot support after just reducing the structural deficit from $28.5 million to $16.3 million this fiscal year. MidCon's 10% cost-of-living increase would set the City on a path for an immediate budget deficit, likely causing near-term layoffs and service reductions.

As demonstrated in the City's financial projections, the MidCon Last Best and Final Offer would create an immediate $1.8 million annual deficit in FY 2025-26, accelerate structural deficits to begin in FY 2026-27, and result in a 47.1% structural deficit increase over five years to $24.0 million – substantially undermining the City's fiscal recovery and likely requiring service reductions and employee layoffs to balance the budget.

Response to Specific Union Proposals

It is important to note that the City requested the Union to defer negotiations for one year while the City identified a fiscal strategy and framework that would lead the City out of the structural deficit and onto a secure path to fiscal sustainability. Gaining that knowledge over the year would allow the City to come to the negotiation table with a better understanding of what would be prudent to proffer.

Vacation Accrual Cap Increase

The Union's assertion that increasing the vacation accrual cap from 260 to 300 hours creates no additional cost is financially incorrect. Under Governmental Accounting Standards Board (GASB) 101 requirements, vacation leave represents an immediate liability on the City's balance sheet, regardless of when it is actually paid out. Increasing the accrual cap by 40 hours per employee creates an immediate $274,233 increase in the City's unfunded liabilities, requiring recognition in current financial statements and potentially affecting the City's credit rating and borrowing capacity.

The operational impact extends beyond financial reporting. While the City supports work-life balance for its employees, the practice of allowing very high vacation balances can create operational challenges when employees take extended continuous absences, requiring more complex temporary coverage solutions. The current 260-hour cap encourages regular vacation

usage, promoting healthy work-life balance while maintaining operational continuity.
The Union's equity argument fails to acknowledge that different bargaining units have negotiated different benefit packages over time. The MidCon unit has historically prioritized other benefits and compensation elements, and the 260-hour cap was part of a comprehensive compensation package agreed upon in previous negotiations.

Management Leave Increase

The Union's assertion that increasing management leave from 40 to 130 hours creates no cost demonstrates a significant misunderstanding of municipal operations. MidCon employees hold critical positions that cannot simply be left vacant without substantial service impacts. These employees manage time-sensitive projects, oversee regulatory compliance, coordinate emergency responses, and maintain essential public services that cannot be delayed or suspended.
When MidCon managers are absent for extended periods, their responsibilities must be redistributed among remaining staff, often requiring other exempt employees to work additional hours or non-exempt staff to work overtime. This redistribution cascades throughout departments, reducing overall productivity and increasing stress on remaining employees.
The proposal represents a 225% increase, equivalent to adding more than three additional weeks of absence per employee annually. For a unit of 61 full-time equivalents (FTEs), this represents nearly 230 additional work weeks of absence that must be absorbed by other staff. The City's $617,025 cost estimate reflects the real operational expenses required to maintain service levels during these extended absences.

Different bargaining units have negotiated distinct benefit packages over time, with each unit making trade-offs based on their specific priorities. The MidCon unit's current management leave allocation was established through collective bargaining where this benefit was balanced against other economic benefits. Increasing one benefit in isolation, without corresponding adjustments elsewhere, undermines the balance achieved through previous negotiations.

Holiday Time-Off Banking

The Union's holiday proposal creates unnecessary administrative complexity without clear operational benefit. The current system appropriately compensates non-exempt MidCon employees through overtime pay when required to work holidays, providing immediate financial benefit. For exempt employees, existing schedule flexibility already allows for time adjustment around holiday work requirements without formal banking mechanisms.

Creating a formal holiday time-off bank system would require new administrative processes for tracking, approvals, and scheduling, adding bureaucratic burden. The estimated $71,930 annual cost reflects both administrative overhead and productivity impacts of managing formal holiday banks when simpler, more effective solutions already exist.

The City is open to discussing flexible time arrangements for non-exempt employees as an alternative to overtime compensation for holiday work, should the Union wish to explore this option in future negotiations.

Conclusion

The City's offer of a 3% salary increase, combined with a $2,450 one-time payment and maintenance of all existing benefits, represents a fair and fiscally responsible proposal that acknowledges the value of MidCon employees while respecting the City's structural deficit constraints and commitment to fiscal recovery. This market-rate offer provides employees with approximately 5% total compensation impact in FY 2025-26.

The Union's proposals, while understandable from an employee advocacy perspective, would significantly undermine the City's strategic fiscal plan and potentially require future service reductions or layoffs to maintain budget balance. The City cannot responsibly commit to ongoing expenses that exceed its sustainable revenue capacity, regardless of past concessions or internal equity concerns.

The City wants to continue working with MidCon in good faith but cannot undo all the recent progress in balancing the structural budget deficit to grant their 10% cost-of-living increase request. The City remains committed to recognizing the valuable contributions of the MidCon unit within the constraints of fiscal responsibility and long-term financial sustainability. The current offer represents the maximum commitment the City can make while maintaining its fiduciary duty to taxpayers and its obligation to provide sustainable public services.