

City of San Leandro



Employer-Employee Relations Resolution

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 70-48

(Including amendments specified under Resolution No. 75-251)

IMPLEMENTING MEYERS-MILIAS-BROWN ACT BY ESTABLISHING PROCEDURES AND RULES FOR ADMINISTRATION OF EMPLOYER-EMPLOYEE RELATIONS BETWEEN THE CITY AND ITS EMPLOYEE ORGANIZATIONS AND FOR RESOLVING MATTERS AFFECTING EMPLOYMENT

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RECITALS

Chapter 10, Division 4, Title 1 of the Government Code of the State of California was amended effective January 1, 1969 for the purpose of promoting improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed.

Government Code Section 3507 empowers a City to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations.

The City of San Leandro desires to adopt such reasonable rules and regulations as authorized by law.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF SAN LEANDRO DOES RESOLVE AS FOLLOWS:

SECTION 1. TITLE OF RESOLUTION

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of San Leandro.

SECTION 2. STATEMENT OF PURPOSE

The purpose of this Resolution is to implement Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned “Public Employee Organizations,” by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours and other terms and conditions of employment.

SECTION 3. DEFINITIONS

As used in this Resolution, the following terms shall have the meanings indicated:

- A. Appropriate Unit – means a unit established pursuant to Section 11 of this Resolution.
- B. City – means the City of San Leandro, a municipal corporation, and where appropriate herein, “City” refers to the City Council, the governing body of said City, or any duly authorized management employee as herein defined.
- C. Consult or Consultation in Good Faith – means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- D. Employee – means any person regularly employed by the City except those persons elected by popular vote.
- E. Employee, Confidential – means an employee who is regularly privy to decisions of City management affecting employer-employee relations.

- F. Employee, Management – means:
1. Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the chief executive officer and department heads; and
 2. Any employee having authority to exercise independent judgment to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- G. Employee, Professional – means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of accredited instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.
- H. Employee Organization – means any organization which includes employees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City.
- I. Employer-Employee Relations – means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.
- J. Grievance – as this term is defined in Section 16 A
- K. Impasse – means (1) a deadlock in the annual (or periodic) discussions between a majority representative and the City over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter; or (2) any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Sections 10, 11 or 12 of this Resolution.
- L. Majority Representative – means an employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of employees in an appropriate unit.
- M. Conciliation – means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.
- N. Meet and Confer in Good Faith – (sometimes referred to herein as “meet and confer” or “meeting and conferring”) – means performance by duly authorized City representatives and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of

representation, excluding City Rights, but including wages, hours, and other terms and conditions of employment, in an endeavor to: (1) reach agreement on those matters within the authority of such representatives; (2) reach agreement on what will be recommended to the Civil Service Board on those matters within the decision making authority of the Civil Service Board; and (3) reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council. This does not require either party to agree to a proposal or to make a concession.

- O. Municipal Employee Relations Officer – means the City’s principal representative in all matters of employer-employee relations designated pursuant to Section 14, or his duly authorized representative.
- P. Peace Officer – as this term is defined in Section 830, California Penal Code.
- Q. Recognized Employee Organizations – means an employee organization which has been acknowledged by the Municipal Employee Relations Officer as an employee organization that represents employees of the City. The rights accompanying recognition are either:
 - 1. Formal Recognition – which is the right to meet and confer in good faith as the majority representative in an appropriate unit; or
 - 2. Informal Recognition – which is the right to consultation in good faith by all recognized employee organizations.
- R. Resolution – means, unless the context indicates otherwise, the Employer – Employee Relations Resolution of the City of San Leandro.
- S. Scope of Representation – The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. City Rights are included within the scope of representation in reference to consultation in good faith; City Rights are excluded from the scope of representation in reference to meeting and conferring in good faith.
- T. Days – means “calendar days” unless otherwise stated.

SECTION 4. EMPLOYEE RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of his exercise of these rights.

SECTION 5. CITY RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

SECTION 6. MEET AND CONFER IN GOOD FAITH – SCOPE

- A. The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit.
- B. The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law or by the City Charter, nor shall it be required to meet and confer in good faith on Employee or City Rights as defined in Sections 4 and 5. Proposed amendments to this Resolution are excluded from the scope of meeting and conferring.

SECTION 7. CONSULTATION IN GOOD FAITH – SCOPE

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation. The City, through its representatives, shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them.

SECTION 8. ADVANCE NOTICE

Except in cases of emergency as provided in this section, the City Council and boards and commissions designated by law or by the City Council, shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation, including matters subject to consultation, proposed to be adopted by the City Council or such boards and commissions and shall give such recognized employee organization the opportunity to meet with the City Council or such boards and commissions. Recognized employee organizations shall give reasonable written notice to the Municipal Employee Relations Officer of any matter within the scope of representation, including matters subject to consultation, proposed to be communicated to the City Council or such boards and commissions.

In cases of emergency when the City Council or such boards and commissions determine that an ordinance, rule, resolution or regulation must be adopted immediately without prior

notice or meeting with a recognized employee organization, the City Council or such boards and commissions shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

SECTION 9. PRIVILEGES GRANTED TO RECOGNIZED EMPLOYEE GROUPS

A. Reasonable Time Off to Meet and Confer

The formally recognized employee organization may select not more than two employee members of such organization to attend scheduled meetings with the Municipal Employee Relations Officer or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. Where circumstances warrant, the Municipal Employee Relations Officer may approve the attendance at such meetings of additional employee representatives without loss of compensation. The employee organization shall, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings. Provided, further:

1. that no employee representative shall leave his or her duty or work station or assignment without approval of the department head or other authorized City management official.
2. that any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.

Nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances, provided, however, that nothing herein shall be construed to limit or restrict the right of the City or recognized employee groups to be represented in scheduled meetings by their attorneys or by union or organizational representatives who are not employed by the City.

B. Access to Work Locations

Reasonable access to employee work locations shall be granted officers of recognized employee organizations and their officially designated representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation, excluding City Rights matters. Such officers or representatives shall not enter any work location without the approval of the Department Head or the Municipal Employee Relations Officer. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, shall not be conducted during working hours without the prior approval of the Municipal Employee Relations Officer.

C. Use of City Facilities

Employee organizations may, with the prior approval of the Municipal Employee Relations Office, be granted the use of City facilities for meetings of City employees provided space is available, and provided further such meetings are not used for organizing or membership drives of City employees. All such requests shall be in writing and shall state the purpose or purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly prohibited unless prior approval is obtained from the Municipal Employee Relations Officer, the presence of such equipment in approved City facilities notwithstanding.

D. Use of Bulletin Boards

Recognized employee organizations may use portions of City bulletin boards under the following conditions:

1. All materials must be submitted to the department head in charge of the departmental bulletin board 24 hours prior to posting. Materials proposed to be posted in more than one department shall be submitted directly to the Municipal Employee Relations Officer.
2. All materials must be dated and must identify the organization that published them.
3. The department head shall present submitted materials to the Municipal Employee Relations Officer for approval prior to posting. The actual posting of materials will be done by the City and as soon as reasonably possible. Unless special arrangements are made, materials posted will be removed 31 days after posting. Materials which the department head considers objectionable will not be posted, provided, however, the department head shall first discuss and receive concurrence from the City Manager.
4. The City reserves the right to determine where bulletin boards shall be placed and what portions of them are to be allocated to employee organizations' materials.
5. An employee organization that does not abide by these rules shall be subject to forfeiture of its right for a period of 30 days to have materials posted on City bulletin boards.

E. Dues Check-Off

Only a formally recognized employee organization (i.e., the majority representatives of employees in an appropriate unit) may be granted permission by the Municipal Employee Relations Officer to have the regular dues of its members deducted from their paychecks, in accordance with procedures prescribed by the Municipal Employee Relations Officer, provided, however, this shall not preclude the continuation of dues check-off heretofore granted to any employee organization.

Dues deduction shall be for a specified amount that shall be made only upon the voluntary written authorization of the member. Dues deduction authorization may be cancelled and the dues check-off payroll discontinued at any time by the member upon voluntary written notice to the Finance Officer. Dues deduction authorization or cancellation shall be made upon cards provided by the Finance Officer. Dues deduction may be continued only upon voluntary written authorization of the member until cancelled by written notice by the employee. Employee payroll deduction authorizations shall be in uniform amounts for dues deductions.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues check-off authorized. When a member in good standing of the formally recognized employee organization is in a nonpay status for an entire pay period, no dues withholding will be made to cover that pay period from future earnings nor will the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who is in a nonpay status during only a part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over employee organization dues.

Dues withheld by the City shall be transmitted to the officer designated in writing by the employee organization as the person authorized to receive such funds, at the address specified.

All employee organizations who receive dues check-off shall indemnify, defend, and hold the City of San Leandro harmless against any claims made and against any suit instituted against the City of San Leandro on account of check-off of employee organization dues, except such suit as is instituted as a direct result of the negligence of the City. In addition, all such employee organizations shall refund to the City of San Leandro any amounts paid to it in error upon presentation of supporting evidence.

F. Availability of Data

The City will make available to employee organizations such non-confidential information pertaining to employment relations as is contained in the public records of the agency, subject to the limitations and conditions set forth in this rule and Government Code Sections 6250-6260.

Such information shall be made available during regular office hours in accordance with the City's rules and procedures for making public records available and after payment of reasonable costs, where applicable.

Information which shall be made available to employee organizations includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries, but shall not be made available in such form as to disclose the source.

Nothing in this rule shall be construed to require disclosure of records that are:

1. Personnel, medical and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy or be contrary to merit system principles;
2. Working papers or memoranda which are not retained in the ordinary course of business or any records where the public interest served by not making the record available clearly outweighs the public interest served by disclosure of the record;
3. Records pertaining to pending litigations to which the City is a party or to claims or appeals which have not been settled;
4. Nothing in this rule shall be construed as requiring the City to do research for an inquirer or to do programming or assemble data in a manner other than usually done by the agency.

SECTION 10. PETITION FOR RECOGNITION

There are two levels of employee organization recognition – formal and informal. The recognition requirements of each are set forth below.

A. Formal Recognition – The Right to Meet and Confer in Good Faith as Majority Representative: An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

1. Name and address of the employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of its members.
4. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
5. A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national international organization, and, if so, the name and address of each such regional, state, national or international organization.
6. Certified copies of the employee organization's constitution and by-laws.
7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
8. A statement that formal recognition of the employee organization shall not be construed as making the provisions of section 923 of the Labor Code applicable to City employees.

9. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
10. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
11. A statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or if mutually agreed upon to the Civil Service Board.
12. A request that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

B. Informal Recognition – The Right to Consult in Good Faith:

An employee organization that seeks recognition for purposes of consultation in good faith shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

1. All of the information enumerated in A (1) through (9) of this Section inclusive.
2. A statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or if mutually agreed upon to the Civil Service Board
3. A request that the Municipal Employee Relations Officer recognize the employee organization for the purpose of consultation in good faith.

C. The petition, including all accompanying documents, shall be verified, under oath, by the Executive Officer and Secretary of the organization that the statements are true. All changes in such information shall be filed forthwith in like manner.

D. The Municipal Employee Relations Officer shall grant recognition, in writing, to all employee organizations who have complied with either Sections 10 A or B and, in addition, Section 10 C for purposes of consultation in good faith for its members. Employee organizations seeking formal recognition as majority representative must, in addition, establish to the satisfaction of the Municipal Employee Relations Officer that it represents a majority of the employees in a manner prescribed in Section 12 A below. No employee may be represented by more than one recognized employee organization for the purposes of this Resolution.

SECTION 11. APPROPRIATE UNIT

- A. The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such employees. The following factors, among others, are to be considered in making such determination:
1. Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Resolution.
 2. The history of employee relations: (i) in the unit; (ii) among other employees of the City; and (iii) in similar public employment.
 3. The effect of the unit on the efficient operation of the City and sound employer-employee relations.
 4. The extent to which employees have common skills, working conditions, job duties or similar educational requirements.
 5. The effect on the existing classification structure of dividing a single classification among two or more units.

Provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

- B. In the establishment of appropriate units, (1) professional employees shall not be denied the right to be represented separately from non-professional employees; and (2) management and confidential employees who are included in the same unit with non-management or non-confidential employees may not represent such employees on matters within the scope of representation.
- C. Peace Officers and non-peace officer positions of Police Technician, Police Assistant (Communications), and Police Assistant may form, join, participate in, and be represented by employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations as provided by this Resolution, provided such employee organizations: (i) are composed solely of such peace officers, and non-peace officer positions listed above and (ii) concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, for the positions in (i) above, and advancement of the academic and vocational training of peace officers, and (iii) are not subordinate to any other organization. Management positions within the police Department may be members of an represented by an organization or unit composed of management positions within the various departments of the City.

SECTION 12. RECOGNITION OF EMPLOYEE ORGANIZATIONS AS MAJORITY REPRESENTATIVE – FORMAL RECOGNITION

- A. The Municipal Employee Relations Officer shall:
1. Determine the majority representative of City employees in an appropriate unit by arranging for a secret ballot election or by any other reasonable method which is based upon written proof, and is designed to ascertain the free choice of a majority of such employees. The employee organization found to represent a majority of the employees in an appropriate unit shall be granted formal recognition and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit. This shall not preclude other recognized employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them.
 2. Revoke the recognition rights of a majority representative, which has been found by secret ballot election no longer to be the majority representative.
- B. The recognition rights of the majority representative designated in accordance with this Section shall not be subject to challenge for a period of not less than twelve months following the date of such recognition.

SECTION 13. REPRESENTATION PROCEEDINGS

- A. Formal Recognition as the Majority Representative in an Appropriate Unit
1. An employee organization that seeks formal recognition as the majority representative in an appropriate unit shall file a Petition for Recognition with the Municipal Employee Relations Officer containing all of the information set forth in Section 10 A of the Resolution, accompanied by written proof that at least 30% of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City; provided, however, upon mutual agreement the employee organization may request that such written proof be submitted to the Civil Service Board for verification. Upon receipt of the Petition for Recognition, the Municipal Employee Relations Officer shall determine whether:
 - (a) there has been compliance with the requirements of the Petition for Recognition, and
 - (b) the proposed unit is an appropriate unit.

If an affirmation determination is made by the Municipal Employee Relations Officer on the foregoing two matters, he shall give notice of such request for formal recognition to the employees in the unit and shall take no action on said request for 30 days thereafter; if either of the foregoing matters are not affirmatively determined, the

Municipal Employee Relations Officer shall inform the employee organization of the reasons therefor in writing.

2. Within 30 days of the date notice to employees is given, any other employee organization (hereinafter referred to as the “challenging organization”) may seek formal recognition in an overlapping unit by filing a Petition for Recognition, provided, however, such challenging organization must submit written proof that it represents at least 30% of the employees in such unit. The Municipal Employee Relations Officer shall hold a hearing on such overlapping Petitions, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between such proposed overlapping units in accordance with the criteria set forth in Section 11 of the Resolution.
3. If the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than 50% of the employees in such unit, the Municipal Employee Relations Officer may, in his discretion, grant formal recognition to such employee organization without a secret ballot election.
4. When an employee organization in the unit found to be appropriate submits written proof that it represents at least 30% of the employees in such unit, and it does not qualify for or has not been granted recognition pursuant to Subsection 3 above, the Municipal Employee Relations Officer shall arrange for a secret ballot election to be conducted by the City Clerk (or such other method normally used by the City to conduct an election), the California State Conciliation Service, the American Arbitration Association, or some agreed upon third party. All challenging organizations who have submitted written proof that they represent at least 10% of the employees in the unit found to be appropriate, and have submitted a Petition for Recognition as required by Section 10 of the Resolution, shall be included on the ballot. The choice of “no organization” shall also be included on the ballot. Employees entitled to vote in such election shall be those persons regularly employed in permanent positions within the unit who were employed during the pay period immediately prior to the date which is 15 days before the election, including those who did not work during such period because of illness, vacation or authorized leaves of absence and who are employed by the City in the same unit on the date of the election. An employee organization shall be granted formal recognition following an election or run-off election if:

that employee organization has received the vote of a numerical majority of all the employees eligible to vote in the unit in which the election is held (i.e., 50% plus 1 of the votes of all eligible employees), or at least 60% of the total number of employees in the unit eligible to vote have voted in the election or run-off election, and an employee organization

receives a numerical majority of all votes cast in the election (i.e., 50% of the votes cast plus 1).

(For example: If 100 employees are eligible to vote in an election, but only 59 actually vote, an employee organization must obtain 51 votes for formal recognition. If 90 employees vote, an employee organization must receive at least 46 votes for formal recognition.

In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election shall also apply to a run-off election.

5. There shall be no more than one valid election in a 12-month period within the same unit.

B. Decertification of Established Unit

1. A Petition for Decertification alleging that an employee organization granted formal recognition is no longer the majority representative of the employees in an appropriate unit may be filed with the Municipal Employee Relations Officer only during the months of October or November of each year following the first full year of formal recognition (e.g., for an employee organization granted formal recognition between December 1, 1968, and September 30, 1969, a Petition for Decertification could not be filed until October, 1970). The Petition for Decertification may be filed by an employee, a group of employees or their representative, or an employee organization. The Petition, including all accompanying documents, shall be verified, under oath, by the person signing it, that its contents are true. It may be accompanied by a Petition for Recognition by a challenging organization. The Petition for Decertification shall contain the following information:
 - (a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
 - (b) The name of the formally recognized employee organization.
 - (c) An allegation that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts.
 - (d) Written proof that at least 30% of the employees in the unit do not desire to be represented by the formally recognized employee organization. Such written proof shall be dated within six months of the date upon which the petition is filed and shall be submitted for confirmation to the Municipal Employee Relations Officer or upon mutual agreement to the Civil Service Board.

2. The Municipal Employee Relations Officer shall arrange for a secret ballot election to determine if the formally recognized employee organization shall retain its recognition rights. The formally recognized employee organization shall be decertified if a majority of those casting valid ballots vote for decertification.
3. There shall be no more than one valid decertification election in the same unit in any 12-month period.

C. Modification of Established Unit

A Petition for Modification of an established unit may be filed by an employee organization with the Municipal Employee Relations Officer during the period for filing a Petition for Decertification. The Petition for Modification shall contain all of the information set forth in Section 10 A of the Resolution, along with a statement of all relevant facts in support of the proposed modified unit. The Petition shall be accompanied by written proof that at least 50% of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the City; provided, however, upon mutual agreement the employee organization may request that such written proof be submitted to the Civil Service Board. The Municipal Employee Relations Officer shall hold a hearing on the Petition for Modification, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between the existing unit and the proposed modified unit. If the Municipal Employee Relations Officer determines that the proposed modified unit is the appropriate unit, then he shall follow the procedures set forth in Section 13 A for determining formal recognition rights in such unit.

D. Duration of Formal Recognition

When an employee organization has been formally recognized, such recognition shall remain in effect for one year from the date thereof and thereafter until such time as the Municipal Employee Relations Officer shall determine, on the basis of a secret ballot election conducted in accordance with the foregoing rules, that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be modified as provided in Subsection C.

E. Cost of Election Proceedings

The cost of any election proceeding shall be borne by the employee organization or organizations whose name(s) appear on the ballot, except decertification costs shall be borne by the challenging organization.

F. Impasses in Representation Proceedings

Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Subsections A, B, C, or D above shall be processed in accordance with the procedures set forth in Section 15 of the Resolution. Provided, however, the written request for an impasse meeting, as described in Section 15 of the

Resolution, must be filed with the Municipal Employee Relations Officer, or the City Clerk, within 14 days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to the impasse procedures or to any other appeal.

SECTION 14. DESIGNATION OF MUNICIPAL EMPLOYEE RELATIONS OFFICER

The City Council shall designate, by Resolution, A Municipal Employee Relations Officer who shall be the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment, excluding City Rights matters.

The Municipal Employee Relations Officer so designated is authorized to delegate these duties and responsibilities.

SECTION 15. RESOLUTION OF IMPASSES

Impasse procedures may be invoked only after the possibility of settlement by direct discussion has been exhausted.

The impasse procedures are as follows:

- A. Conciliation (Defined in Section 3-M) – All conciliation proceedings shall be private. The Conciliator shall make no public recommendations nor take any public position concerning the issues.
- B. Any Other Impasse Resolving Procedures to which the parties mutually agree or which the City Council may order.
- C. A Determination by the City Council – after a hearing on the merits of the dispute.

Any party may initiate the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled by the Municipal Employee Relations Officer within 14 days after the date of filing of the written request for such meeting, with written notice to all parties affected. The purpose of such impasse meeting is twofold: (1) To permit a review of the position of all parties in a final effort to reach agreement on the disputed issues, and (2) if agreement is not concluded, the mutually select the specific impasse procedure to which the impasse may be submitted; in the absence of agreement between the parties on this point, the matter may be referred to the City Council.

The fees and expenses, if any, of mediators or of any other impasse procedure, shall be payable one-half by the City and one-half by the employee organization or employee organizations.

SECTION 16. GRIEVANCES

- A. A grievance is any dispute concerning the interpretation or application of this Resolution, or of rules or regulations governing personnel practices or working conditions, or the practical consequences of a City Rights' decision on wages, hours and other terms and conditions of employment.
- B. Grievances shall be processed in accordance with procedures established after consultation in good faith by the City and formally recognized employee organizations.

SECTION 17. PEACEFUL PERFORMANCE OF CITY SERVICES

Participants by any public employee in any activity unlawful under the laws of the State of California shall likewise be precluded under this resolution and my subject the participating employee to disciplinary action, up to and including discharge.

No employee organization, its representatives, or members shall engage in, cause, instigate or encourage any activity in violation of the laws of the State of California.

If a recognized employee organization, its representatives, or members engage in any activity in violation of the laws of the State of California, in addition to any other lawful remedies or disciplinary actions, the Municipal Employee Relations Officer may suspend or cancel any and all payroll deductions payable to such organization, and prohibit the use of City facilities and prohibit access to former work or duty stations by such organization.

Any decision of the Municipal Employee Relations Officer made under the provisions of this section may be appealed to the City Council by filing a written notice of appeal with the City Clerk through the Municipal Employee Relations Officer, accompanied by a complete statement setting forth all of the grounds upon which the appeal is based. Such notice of appeal must be filed within seven days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to any other appeal. The City Council shall hear and determine said appeal within a reasonable time.

In application of the Section "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

SECTION 18. MEMORANDUM OF UNDERSTANDING

When the meeting and conferring process is concluded and, if an agreement is reached by the representatives of the City and the formally recognized employee organization or formally recognized employee organizations on matters within the scope of representation and excluding City Rights matters, they shall jointly prepare a written memorandum of such understanding incorporating all agreed upon matters, which shall not be binding, and the memorandum shall be presented to the pertinent government body of determination.

As to those matters within the authority of the Civil Service Board, the memorandum of understanding shall be submitted to the Civil Service Board the memorandum of understanding shall be submitted to the Civil Service Board for determination.

As to those matters within the authority of the City Council, the memorandum of understanding shall be submitted to the City Council for determination.

SECTION 19. CONSTRUCTION

- A. Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.
- B. The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Resolution.
- C. The provisions of this Resolution are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.) as amended in 1968.

SECTION 20. SEPARABILITY

If any provisions of this Resolution, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Initial Resolution #70-48 passed on March 2, 1970 by a 7-0 vote of the City Council.

Ayes: Council Members Giancos, Kant, Polvorosa, Pomares, Suerstedt, Woods;
Mayor Maltester

The amending Resolution #75-251 passed on November 3, 1975 by a 7-0 vote of the City Council.

Ayes: Council Members Coppa, Frazier, Gill, Polvorosa, Seymon, Suerstedt;
Mayor Maltester