

RESOLUTION 2002-29  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA,  
CALIFORNIA, REGARDING EMPLOYER-EMPLOYEE RELATIONS

OUTLINE OF CONTENTS

	<u>Page</u>
SECTION 1. COUNCIL RESOLUTION RESCINDED	1
SECTION 2. TITLE OF RESOLUTION	1
SECTION 3. STATEMENT OF PURPOSE	1
SECTION 4. DEFINITIONS	2
SECTION 5. EMPLOYEE RIGHTS	5
SECTION 6. CITY RIGHTS	6
SECTION 7. MEET AND CONFER IN GOOD FAITH – SCOPE	6
SECTION 8. CONSULTATION IN GOOD FAITH – SCOPE	6
SECTION 9. ADVANCE NOTICE	6
SECTION 10. PETITION FOR RECOGNITION	7
SECTION 11. DETERMINATION OF APPROPRIATE UNIT	8
SECTION 12. REPRESENTATION PROCEEDINGS	9
A. Formal Recognition as the Majority Representative	
B. Recognition of Employee Organizations as Majority Representative--Formal	
C. Decertification Process	
D. Procedure for Modification of Established Appropriate Units	
E. Duration of Formal Recognition	
F. Cost of Election Proceedings	
G. Impasses in Representation Proceedings	
SECTION 13. APPEALS	15
SECTION 14. DESIGNATION OF EMPLOYEE RELATIONS OFFICER	16
SECTION 15. MEMORANDUM OF UNDERSTANDING	16
SECTION 16. RESOLUTION OF IMPASSES	16
SECTION 17. GRIEVANCES	17
SECTION 18. REASONABLE TIME OFF TO MEET AND CONFER	17
SECTION 19. ACCESS TO WORK LOCATIONS	18
SECTION 20. USE OF CITY FACILITIES	18
SECTION 21. USE OF BULLETIN BOARDS	18
SECTION 22. AVAILABILITY OF DATA	19
SECTION 23. PEACEFUL PERFORMANCE OF CITY SERVICES	20
SECTION 24. RULES AND REGULATIONS	20
SECTION 25. CONSTRUCTION	20
SECTION 26. SEPARABILITY	21



**WHEREAS**, this Resolution shall be known as the Employer-Employee Resolution of the City of Santa Maria; and

**WHEREAS**, this Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) 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; and

**WHEREAS**, Government Code Sections 3507 and 3507.5 empower 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; and

**WHEREAS**, the City of Santa Maria desires to adopt such reasonable rules and regulations as authorized by law;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** as follows:

**SECTION 1. COUNCIL RESOLUTION RESCINDED**

Council Resolution No. 3420 is hereby rescinded and superseded by this Resolution becoming effective and operative.

**SECTION 2. TITLE OF RESOLUTION**

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of Santa Maria.

**SECTION 3. 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 "Local Public Employee Organizations", by promoting full communications and orderly procedures for the conduct 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. However, nothing contained herein shall be deemed to supersede the provisions of State law, City Charter, ordinances, resolutions, and rules which establish and regulate the City's personnel system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations, and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters within the scope of representation including wages, hours, and other terms and conditions of

employment of employees in appropriate units and that are not preempted by Federal or State law or City Charter.

#### SECTION 4. DEFINITIONS

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

- A. APPROPRIATE UNIT -- means a unit established pursuant to Section 10 (Petition for Recognition) of this Resolution.
- B. CITY -- means the City of Santa Maria, a municipal corporation, and where appropriate herein, according to the context, "City" refers to the City Council, the governing body of said City, or any authorized City representative as herein defined.
- C. CITY MANAGER -- means the City's Chief Administrative Officer who is designated as the principal representative in all matters of employer-employee relations, pursuant to Section 14 (Designation of Employee Relations Officer), or his/her duly authorized representative.
- D. CONSULT OR CONSULTATION IN GOOD FAITH -- means to communicate orally or in writing with affected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of intended actions in an effort to reach a consensus; and as distinguished from meeting and conferring in good faith regarding matters within the required scope of the meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a memorandum of understanding, nor is it subject to Section 16 (Resolution of Impasses) hereof.
- E. DAY -- means calendar day unless expressly stated otherwise.
- F. EMPLOYEE -- means any person regularly employed in a full-time permanent position by the City, except those persons elected by popular vote.
- G. EMPLOYEE, CONFIDENTIAL -- means an employee who is privy to decisions of City management affecting employer-employee relations.
- H. EMPLOYEE, MANAGEMENT -- means:
  - 1. an employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to department heads; or
  - 2. an employee who may reasonably be required, on behalf of the public employer, to assist directly in the preparation for the conduct of collective negotiations or to have a major role in the administration of agreements or in

personnel administration, provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment; or

3. management and supervisory personnel who have authority to act or execute action in the interest of the employer in such matters as hiring, transferring, suspending, laying off, disciplining other employees or who have authority to adjust grievances; or
  4. the City Council, based upon the recommendations of the City Manager, may designate management and/or confidential employees who shall not be represented by any of the formally-recognized employee groups.
- I. EMPLOYEE, PROFESSIONAL -- means employees engaged in work predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; involving the consistent exercise of discretion and judgement in its performance; of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and requiring specialized knowledge and skills attained through completion of a recognized and prolonged course of specialized intellectual instruction and study in an institute of higher learning.
- J. EMPLOYEE, SUPERVISORY -- means any employee having authority, in the interest of the City, to hire, transfer, suspend, evaluate, promote, discharge, assign, reward, discipline other employees, 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.
- K. EMPLOYEE RELATIONS OFFICER -- means the City Manager or his/her duly authorized representative.
- L. EMPLOYER-EMPLOYEE RELATIONS -- means the relationship between the City and its employees and their employee organizations, or when used in a general sense, the relationship between City management and employees or employee organizations.
- M. EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION -- means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Sections 11 (Determination of Appropriate Unit) and 12 B (Recognition of Employee Organizations as Majority Representative – Formal Recognition) hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

N. GRIEVANCE -- means any dispute concerning the interpretation or application of this Resolution, or of rules or regulations governing personnel practices or working conditions, or of the practical consequences of a City rights decision on wages, hours, and other terms and conditions of employment.

O. IMPASSE -- means:

1. a deadlock in any discussions between a recognized employee organization 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 regarding recognition, advanced in good faith, concerning a decision of the City Manager made pursuant to Sections 10 (Petition for Recognition) and 12 (Representation Proceedings) of this Resolution.

P. MAJORITY REPRESENTATIVE -- means an employee organization's duly authorized representative, that has been granted formal recognition by the Employee Relations Officer as representing the majority of employees in an appropriate unit.

Q. MEDIATION OR 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.

R. 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 the recognized 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, including wages, hours, and other terms and conditions of employment, in an effort to:

1. reach an agreement on those matters within the authority of such representatives; or
2. reach an 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.

S. ORGANIZED EMPLOYEE ORGANIZATIONS -- means an employee organization which has been formally- or informally-recognized by the Employee Relations Officer

as an employee organization that represents employees of the City. The rights accompanying such recognition are either:

1. Formal Recognition -- which is the right to meet and confer in good faith as the majority representatives in an appropriate unit; or
2. Informal Recognition -- which is the right to consultation in good faith by all recognized employee organizations.

T. PROOF OF EMPLOYEE SUPPORT -- means (1) an authorization card recently signed and personally dated by an employee; or (2) a verified authorization petition or petitions recently signed within six months prior to the filing of a petition and personally dated by an employee; or (3) employee dues deduction authorization for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee.

U. PUBLIC EMPLOYMENT RELATIONS BOARD (PERB) -- is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California.

V. RESOLUTION -- means, unless the context indicates otherwise, the Employer-Employee Relations Resolution of the City of Santa Maria.

W. SCOPE OF REPRESENTATION -- means all matters relating to the employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. City Rights (Section 6) are excluded from the scope of representation.

## **SECTION 5. 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 employees' organization because of his/her exercise of these rights.

## **SECTION 6. 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; subcontract work; 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 7. MEET AND CONFER IN GOOD FAITH - SCOPE**

- A. The City, through its principal representative, shall meet and confer in good faith with representatives of a formally-recognized employee organization regarding matters within the scope of representation including wages, hours, and other terms and conditions of employment.
- B. The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law, by City ordinance or City Charter, nor shall it be required to meet and confer in good faith on Employee or City Rights, as defined in Sections 5 and 6.

## **SECTION 8. 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 principal representative, shall consult in good faith with representatives of all formally- or informally-recognized employee organizations on employer-employee relation matters which affect them. Advance notice on matters subject to consultation, but outside the scope of representation, is desirable but not mandatory.

## **SECTION 9. ADVANCE NOTICE**

Reasonable written notice shall be given to any formally- or informally-recognized employee organization affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by any board or commission of the City, and it shall be given the opportunity to meet with such body prior to adoption.

In cases of emergency, when the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with formally- or informally-recognized employee organizations, the City



shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or minute order.

## **SECTION 10. PETITION FOR RECOGNITION**

A. 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 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 or 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 bylaws.
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 served on the employee organization for any purpose.
8. A statement that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to City employees.
9. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, gender or national origin, age, sexual orientation, mental or physical disability or medical condition.
10. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
11. A statement of the total number of its membership and 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 thirty percent (30%)

of the 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 Employee Relations Officer or to a mutually agreed upon disinterested third party.

12.A request that the Employee Relations Officer formally recognize the employee organization (petitioner) as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

B. The petition, including proof of employee support and all accompanying documents, shall be verified, under oath, by the Executive Officer, Secretary, and other duly authorized officer(s) of the organization that the statements are true, correct, and complete. All changes in such information shall be filed forthwith in like manner.

C. The Employee Relations Officer shall grant informal recognition, in writing, to all employee organizations that have complied with Section 10 (Petition for Recognition) for purposes of consultation in good faith on behalf of its members. Employee organizations seeking formal recognition as the majority representative must, in addition, establish to the satisfaction of the Employee Relations Officer that they represent a majority of the employees in the manner prescribed in Section 12 A (Formal Recognition as the Majority Representative).

D. No employee may be represented by more than one recognized employee organization for the purpose of this Resolution.

#### **SECTION 11. DETERMINATION OF APPROPRIATE UNIT**

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public; and (2) providing employees with effective representation based on recognized community-of-interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

A. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

B. History of representation in the City and in similar public employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

C. Consistency with the organizational patterns of the City.

- D. Effect of differing legally mandated impasse resolution procedures.
- E. Number of employees and classifications and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- F. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification(s) among two or more units.
- G. The effect of the unit on the efficient operation of the City and sound employer-employee relations.
- H. The extent of managerial and confidential responsibilities, as defined in Section 4 of this Resolution.

Peace officers may join, participate in, and be represented in separate units composed solely of such peace officers. These units shall not be subordinate to any other employee organization which includes non-peace officers.

Firefighters may join, participate in, and be represented in separate units composed solely of such firefighters. These units shall not be subordinate to any other employee organization which includes non-firefighters.

The Employee Relations Officer, after reviewing the petitions filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate, or delete modified classifications or positions from units in accordance with the provisions of this section. The decision of the Employee Relations Officer shall be final.

## **SECTION 12. REPRESENTATION PROCEEDINGS**

### **A. FORMAL RECOGNITION AS THE MAJORITY REPRESENTATIVE**

1. An employee organization that seeks formal recognition as the majority representative in an appropriate unit shall file a Petition for Recognition with the Employee Relations Officer containing all of the information set forth in Section 10 (Petition for Recognition) of this Resolution, accompanied by written proof that at least thirty percent (30%) of the employees in an appropriate unit have designated the employee organization to represent them in their employment relations with the City; provided, however, the employee organization may request that such written proof be submitted to a mutually

agreed upon disinterested third party. Upon receipt of the Petition for Recognition, the Employee Relations Officer shall determine whether there has been compliance with the requirements of the Petition for Recognition.

If an affirmative determination is made by the Employee Relations Officer on the foregoing, s/he shall give notice of such request for recognition to the employees and shall take no action on said request for thirty (30) calendar days thereafter; if the foregoing matters are not affirmatively determined, the Employee Relations Officer shall inform the employee organization of the reasons therefore in writing.

2. Within thirty (30) calendar days of the date notice to employees is given, any other employee organization (hereinafter referred to as the "challenging organization") may seek formal recognition by filing a Petition for Recognition; provided, however, such challenging organization must submit written proof that it represents at least thirty percent (30%) of the employees in the same unit. The Employee Relations Officer shall hold a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate employee organization.
3. If the written proof submitted by the employee organization found to be appropriate establishes that it represents more than fifty percent (50%) of the employees in such unit, the Employee Relations Officer may, in his discretion, grant formal recognition to such employee organization without a secret ballot election.
4. When an employee organization found to be appropriate submits written proof that it represents at least thirty percent (30%) of the employees in an appropriate unit, and it does not qualify for or has not been granted recognition pursuant to Subsection 3 above, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by the City Clerk, the California State Mediation and Conciliation Service, the American Arbitration Association or an agreed-upon third party. All challenging organizations who have submitted written proof that they represent at least ten percent (10%) of the employees in an appropriate unit, and have submitted a Petition for Recognition as required by Section 10 (Petition for Recognition) 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 full-time positions in such unit, probationary employees included, who were employed during the pay period immediately prior to the date which is fifteen (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 such unit on the date of the election. An employee

organization shall be granted recognition following an election or runoff election if:

- (a) 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); unless
- (b) at least sixty percent (60%) of the total number of employees in the unit eligible to vote have voted in the election or runoff election, then when 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); unless
  - (i) pursuant to the California Government Code, other standards shall apply; and unless
  - (ii) in an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a runoff 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 runoff election.

5. There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same employees.

6. Any dispute on election procedures, upon request of an employee organization, whether exclusive or not, or the City, shall be submitted to the Public Employment Relations Board (PERB) for further administrative and procedural review to the extent authorized by law and this Resolution. The PERB shall make its determinations based exclusively on the rules adopted by the City, the Meyers-Milias Brown Act, and judicial interpretations of the Meyers-Milias Brown Act. No party shall seek resolution by the the PERB until it has exhausted the impasse procedures outlined in this Resolution. Any party appealing to the PERB shall file an appeal with the PERB to the extent allowed by law and this Resolution, no later than fifteen (15) calendar days from notification by the Employee Relations Officer that impasse procedures have been exhausted without resolution.

## B. RECOGNITION OF EMPLOYEE ORGANIZATIONS AS MAJORITY REPRESENTATIVE -- FORMAL RECOGNITION

1. The Employee Relations Officer shall:

- a. 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 the appropriate unit pursuant to Section 12 A (Formal Recognition as the Majority Representative) herein 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 the informally-recognized employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them; and

- b. revoke the recognition rights of a majority representative, which has been found by secret ballot election, or any other reasonable method which is based upon written proof, to no longer be the majority representative.
2. The recognition rights of the majority representative designated in accordance with this section shall be effective for a period of not less than twelve months following the date of such recognition.

### C. DECERTIFICATION OF ESTABLISHED EMPLOYEE ORGANIZATION

#### 1. Decertification Process

(a) 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 Employee Relations Officer only during the thirty (30) calendar day period commencing one hundred fifty (150) calendar days and concluding one hundred twenty (120) calendar days prior to the termination date of a memorandum of understanding. The Petition for Decertification may be filed by two or more employees, a group of employees or their representative, or an employee organization. The Petition, including all accompanying documents, shall be verified under oath, by the persons 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:

- (i) The name, address, and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- (ii) The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
- (iii) An allegation that the formally-recognized employee organization no longer represents a majority of the employees in the unit and any other relevant and material facts.

- (iv) Written proof that at least thirty percent (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 Employee Relations Officer or to a mutually agreed upon disinterested third party.
- (v) The Employee Relations Officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this Resolution. If this determination is in the negative, the Employee Relations Officer shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 13 (Appeals) of this Resolution. If the determination of the Employee Relations Officer is in the affirmative, or if this negative determination is reversed on appeal, the Employee Relations Officer shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.
- (b) The Employee Relations Officer shall arrange for a secret ballot decertification election to determine if the formally-recognized employee organization shall retain its recognition rights. The election rules set forth in Section 12 A 4 (Representation Proceedings) shall apply to this decertification election.
- (c) Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Employee Relations Officer made pursuant to Sections 10 (Petition for Recognition) or 12 (Representation Proceedings) of this Resolution shall be processed in accordance with the procedures set forth in Section 12 A 6 (Representation Proceedings) of this Resolution and subject to the PERB administrative and procedural review to the extent allowed by law as set forth in Section 12 A 6; provided, however, the written request for an impasse meeting must be filed within fifteen (15) calendar days after the affected employee organization first received notice of the decision upon which the complaint is based, or its complaint will be considered closed and not subject to the impasse procedures or to any other appeal.
- (d) If, pursuant to this section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any memorandum of understanding then in effect for its remaining term.
- (e) There shall be no more than one valid decertification election in the same unit on any twenty-four (24) month period.

#### D. PROCEDURE FOR MODIFICATION OF ESTABLISHED APPROPRIATE UNITS

1. Requests for modifications of established appropriate units may be considered by the Employee Relations Officer only during the month of April immediately following the initial adoption of this Resolution or thereafter, during the thirty (30) calendar day period commencing one hundred fifty (150) calendar days and concluding one hundred twenty (120) calendar days prior to the termination date of a memorandum of understanding.
2. Requests by a group of employees shall be submitted in the form of a Recognition Petition and, in addition to applicable requirements set forth in Section 10 (Petition for Recognition) of this Resolution, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 11 (Determination of Appropriate Unit) hereof, and in addition, a description of the modification sought by the petition, a statement of the reasons for the modification, and the name of any other employee organization known to have an interest in representing the employees covered by the petition. The Employee Relations Officer shall process such petitions as other recognition petitions under this Resolution.
3. An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing for and processing of such request shall be as specified in this subsection D 1 and D 2.
4. The Employee Relations Officer may also propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 11 (Determination of Appropriate Unit) of this Resolution, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 12 A 6 of this Resolution. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 12 hereof.
5. When an exclusively recognized employee organization is modified pursuant to this section, to include an additional classification or group of classifications, and the current memorandum of understanding under the new unit has no contract provisions to deal with previously negotiated benefits that deal exclusively with



said classifications, then the City and the Exclusively Recognized Employee Organization will immediately meet and confer over terms and conditions of employment specific to said classifications assigned to the new unit.

#### E. 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 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.

#### F. COST OF ELECTION PROCEEDINGS

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

#### G. IMPASSES IN REPRESENTATION PROCEEDINGS

Any unresolved complaint by an affected employee organization, which is either formally- or informally-recognized at the time of the complaint, advanced in good faith, concerning a decision of the Employee Relations Officer made pursuant to Subsections A, B, or C above shall be processed in accordance with the procedures set forth in Section 16 (Resolution of Impasses) of this Resolution; provided, however, the written request for an impasse meeting, as described in Section 16 (Resolution of Impasses) of this Resolution, must be filed with the Employee Relations Officer within seven (7) calendar days after the affected employee organization first received 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 13. APPEALS**

An employee organization aggrieved by an appropriate unit determination or unit modification decision of the Employee Relations Officer, or by a determination of the Employee Relations Officer in connection with a Petition for Recognition (Section 10), Challenging Petition (Section 12), or Decertification Petition (Section 12), may, within ten (10) calendar days of such determination by the Employee Relations Officer, request the assistance of a mediator from the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the City Council for final decision within fifteen (15) calendar days of the Employee Relations Officer's determination or the termination of mediation proceedings, whichever is later.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) calendar days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any

decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

#### **SECTION 14. DESIGNATION OF EMPLOYEE RELATIONS OFFICER**

The City Council hereby designates the City Manager to be the City's principal representative (Employee Relations Officer) 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.

The City Manager is authorized to delegate these duties and responsibilities by the filing of written notice in the Office of the City Clerk.

#### **SECTION 15. MEMORANDUM OF UNDERSTANDING**

When the meet and confer process is concluded between the City and a formally-recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized City and majority representatives. 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 16. RESOLUTION OF IMPASSES**

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

Either formally-recognized employee organizations or the City may initiate the impasse procedure by filing with the other party affected, a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting may then be scheduled by the City Manager forthwith after the date of filing of the written request for such meeting with written notice to all parties concerned. The purpose of such impasse meeting is to permit a review of the position of both parties in a final effort to reach agreement on the disputed issues.

In the event a formally-recognized organization and the City representatives are unable to agree finally on the disputed issues, both parties may agree to submit to mediation of the problem by submitting it to a mediator or fact finder agreeable to both parties. Such mediator or fact finder may be selected from a panel to be provided by the State Mediation and Conciliation Service or other mutually agreeable source. The fees and expenses of mediation shall be borne equally. All mediation proceedings shall be private. The mediator or fact finder shall make no public recommendations nor take any public position at any time concerning the disputed issues.

The City Council shall make a final determination on the merits of the disputed issues.

### **SECTION 17. GRIEVANCES**

This section is applicable to those employees that do not have a grievance procedure set forth in their respective memorandum of understanding.

- 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 of the practical consequences of a City rights decision on wages, hours, and other terms and conditions of employment.
  
- B. Any grievance shall be first brought informally, that is orally, or at the employee's option formally, in writing, to the head of his/her department. In the event the decision of the department head is adverse to the employee's grievance, the employee may appeal the decision in writing to the City Manager within not more than seven (7) calendar days after the employee is informed of the department head's decision. If the employee fails to so appeal the decision, the matter will be considered closed and shall not be the subject of any further appeal. In reviewing any such grievance, both the department head and the City Manager, as the case may be, shall make every effort to review the matter and to report the decision to the employee at the earliest possible date. In the event the decision by the City Manager is adverse to the employee, the employee may appeal the City Manager's decision in writing to the City Council within not more than seven (7) calendar days following the date the employee is advised of the City Manager's decision. The City Council may adopt, modify, or reject the report of the City Manager, or may in its discretion grant a hearing de novo.

### **SECTION 18. REASONABLE TIME OFF TO MEET AND CONFER**

The formally-recognized employee organizations may select a reasonable number of employee members of such organization to attend scheduled meetings with the Employee Relations Officer or other designated management officials on subjects within the scope of representation during regular work hours without loss of compensation. The employee organization shall, whenever practicable, submit the names of all such employee representatives to the Employee Relations Officer at least two working days in advance of such meetings. Provided further:

- (1) that no employee representative shall leave his/her duty or work station or assignment without specific approval of the Employee Relations Officer who shall notify department heads or his/her designated alternate; and
  
- (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.

### **SECTION 19. ACCESS TO WORK LOCATIONS**

Reasonable access to employee work locations shall be granted officers of formally- or informally-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. Such officers or representatives shall not enter any work location without the consent of the department head or the City Manager who will inform any affected department head. 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 to the extent that such activities interfere with the performance of the duties of any employees.

### **SECTION 20. USE OF CITY FACILITIES**

Employee organizations recognized formally or informally may, with the prior approval of the City Manager, be granted the use of City facilities during non-work hours for meetings of City employees provided space is available. 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, the presence of such equipment in approved City facilities notwithstanding.

### **SECTION 21. USE OF BULLETIN BOARDS**

Formally- or informally-recognized employee organizations may use portions of City bulletin boards under the following conditions:

- (1) All materials not relating to wages, hours, and other terms and conditions of employment must receive the approval of the department or division head in charge of the departmental bulletin board.
- (2) All materials must be dated and must identify the organization that published them.

- (3) The actual posting of materials will be handled by the City as soon as possible after they have been approved. Unless special arrangements are made, materials posted will be removed thirty-one (31) calendar days after the publication date.
- (4) The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to employee organization materials.
- (5) An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

## **SECTION 22. 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 its 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 the existing personnel practices.
- (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 litigation 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 conduct research for an inquirer or to program or assemble data in a manner other than usually performed by the agency.

## **SECTION 23. PEACEFUL PERFORMANCE OF CITY SERVICES**

Participation by an employee and/or by a representative of a formally- or informally-recognized employee organization in a strike, sick-out, slowdown or work stoppage is in violation of their conditions of employment and shall subject the employee and/or the representative of a formally- or informally-recognized employee organization to disciplinary action by the City Manager.

Any decision of the City Manager made under the provisions of this section may be appealed to the City Council by filing a written Notice of Appeal with the City Manager and City Clerk 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 (7) calendar days after the affected employee or employee organization first received notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to any other appeal.

## **SECTION 24. RULES AND REGULATIONS**

The City Council may adopt such rules and regulations necessary or convenient to implement the provisions of this Resolution and Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.).

## **SECTION 25. CONSTRUCTION**

- A. Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal and State laws, City ordinance, 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. This Resolution shall be interpreted so as to carry out its purpose as set forth in Section 3 (Statement of Purpose). The inclusion of, or repetition of, provisions of the said code in this Resolution are for purposes of information and convenience in administration only.
- D. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sick-out or other total or partial stoppage or slowdown of work. In consideration of, and as a condition of, initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive State or contrary local law. In the event employees engage in such actions, they shall subject themselves to

discipline up to and including termination, and may be replaced to the extent such actions are not prohibited by preemptive law.

**SECTION 26. SEPARABILITY**

If any provision of this Resolution, or the application of such provision to any person or circumstance, 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.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of the City of Santa Maria held on March 5, 2002.

**/S/ JOSEPH CENTENO**

Mayor

ATTEST:

**/s/STEPHANIE SWARNER**

City Clerk

APPROVED AS TO FORM:

BY: *Wanda Steady*  
City Attorney

CONTENTS:  
BY: *R. DeLeon*  
Department Head

BY: *[Signature]*  
City Manager

XXXXXXXXXXXXXXXXXXXX