

RESOLUTION NO. 15079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE AS AUTHORIZED BY CHAPTER 10, DIVISION 4, TITLE 1 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA 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 ESTABLISHING REASONABLE RULES AND REGULATIONS TO ACHIEVE THIS OBJECTIVE AND REPEALING RESOLUTIONS NOS. 11446, 11626, 11858 AND 12438.

WHEREAS Chapter 10, Division 4, Title 1 of the Government Code of the State of California states that one of its purposes is to promote 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 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; and

WHEREAS the City of Riverside desires to adopt such reasonable rules and regulations as authorized by law;

NOW, THEREFORE, the City Council of the City of Riverside DOES HEREBY RESOLVE as follows:

ARTICLE I -- GENERAL PROVISIONS

Sec. 1. Title of Resolution

This resolution shall be known as the Employer-Employee Relations Resolution of the City of Riverside.

Sec. 2. Statement of Purpose.

This Resolution implements 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 providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. 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 merit and civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil service and other 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 that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not pre-empted by Federal or State law or the City Charter. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, as more fully outlined in Section 5, City Rights and Responsibilities.

Sec. 3. Definitions.

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

a. "Appropriate Unit" means a unit of employee classes or positions established pursuant to Article II hereof.

b. "Administrative Support Employee" means an employee who works in classifications which are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: account clerks, messengers, dispatchers, payroll clerks, legal support specialists, and office specialists.

c. "City" means the City of Riverside, California, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.

d. "Confidential Employee" means an employee, who, in the course of his/her duties, has access to files or information relating to the City's administration of employer-employee relations; or whose duties and responsibilities are so closely aligned with those of a management employee as to establish an identification with the implementation or dissemination of management policies on a City-wide or Department-wide basis.

In connection with this latter definition and in the interest of preserving the City's efficient operations, certain positions in the following Departments or areas shall be deemed presumptively Confidential:

- i) City Manager's Office
- ii) City Attorney's Office
- iii) Mayor's Office
- iv) City Clerk's Office
- v) Human Resources Innovation and Technology
- vi) Finance
- vii) Administrative Support to Department Heads

e. "Consult/Consultation in Good Faith" means to communicate orally or in writing, upon the request of an Exclusively Recognized Employee Organization, for the purpose of presenting and obtaining views or advising of intended actions; and, as

distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve any exchange of proposals and counter-proposals in an endeavor to reach agreement, nor is it subject to Article III hereof.

f. "Day" means calendar day unless expressly stated otherwise.

g. "Executive Employee" means City Manager, City Attorney, City Clerk Assistant City Manager and Department Heads.

h. "Fire Suppression Employee" means an employee whose primary purpose is to respond to fire and emergency calls and is a safety member of the Public Employees Retirement System which includes Firefighters, Engineers, and Captains.

i. "Fire Suppression Management Employee" means an employee whose primary purpose is to manage employees in the fire suppression and emergency service and is a safety member of the Public Employees Retirement System and who have managerial responsibility, as defined in the Management Employee definition of this section, which includes Battalion Chiefs, including when serving as Division Chiefs or Deputy Chiefs.

j. "Impasse" means that the representatives of the City and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning matters on which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

k. "Inspection and Technical Employee" means an employee who is in an occupation which requires a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: Innovation and Technology (IT) technicians, drafters, survey and mapping technicians, inspectors, and similar classes.

l. "Law Enforcement Employee" means an employee who is a peace officer per Penal Code Section 830.1 and is a safety member of the Public Employees Retirement System, and other classes of employees whose primary functions are directly related to law enforcement.

m. "Law Enforcement Supervisory Employee" means an employee who is a peace officer per Penal Code Section 830.1 and is a safety member of the Public Employees Retirement System who has supervisor responsibility, as defined in the Supervisory Employee definition in this section.

n. "Law Enforcement Management Employee" means an employee who is a peace officer per Penal Code Section 830.1 and is a safety member of the Public Employees Retirement System who has managerial responsibility, as defined in the Management Employee definition in this section.

o. "Management Employee" means an employee who is under the direction of a department head or Sr. Manager and having responsibility for formulating, administering or managing the implementation of City policies or programs on either a

City-wide or Department-wide basis through supervisory and subordinate employees, which may include responsibility for labor relations, and training supervisory employees

p. "Municipal Employee Relations Officer" (MERO) means the City Manager or that person's duly authorized representative.

q. "Para-professional Employee" means an employee performing work in classifications possessing some of the characteristics of professional employees, including substantial general education or extensive experience and training in professionally-oriented or sub-professional fields. It may include those who have demonstrated ability to assume significant responsibilities in a general way, as well as those who have had substantial but incomplete professional training. "Professional Employee" means an employee whose work is predominantly intellectual, varied and specialized in character, which involves significant exercise of discretion and judgment in its performance, which may be of such a character that the output produced or the results accomplished may not be standardized in relation to a given period of time, and which requires knowledge of an advanced type of field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in a higher or specialized learning as distinguished from a general education and from vocational or other training in the performance of routine mental, manual or physical processes; includes employees who have completed the courses of specialized intellectual instruction and are performing related work under the supervision of a professional person and are awaiting required licensing or performing limited work experience in order to achieve full professional status.

r. "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 and personally dated by an employee. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

s. "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the City as the sole employee organization that represents the employees in an appropriate representation unit pursuant to Article II hereof.

t. "Peace Officer" means those employees defined as peace officers by California Statute.

u. "Senior Management Employee" means an employee who is not included in the Executive group, but exercises great independence and control over a significant work group or subject area, and/or influences the direction of City projects. Employees in this group exercise more influence and independence than those employees in the Management group.

v. "Service-Maintenance Employee" means an employee in classifications in which they perform work which results in or contributes to the comfort, convenience, hygiene or safety of the general public or which contributes to the upkeep and care of

buildings, facilities or grounds of public property. Workers in this category may operate machinery. Includes: bus drivers, truck drivers, garage laborers, custodial employees, gardeners and groundkeepers, refuse collectors, construction laborers, park rangers, craft apprentices/trainees/helpers, and kindred workers.

w. "Skilled Craft Worker Employee" means an employee in classifications which require special manual skill and a thorough and comprehensive knowledge of the process involved in the work which is acquired through on-the-job training and experience or through apprenticeships or other formal training programs. Includes: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, power plant operators, water and sewage treatment plant operators, and kindred occupations.

x. "Supervisory Employee" means an employee having authority, in the interest of the City, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or 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.

Miscellaneous: The enactment of this Resolution shall not disturb the composition of bargaining units existing as of July 1, 1983, otherwise affected by the definitions and presumptions contained herein except under the following circumstances: (a) A valid and timely petition is filed by an appropriate party other than the Municipal Employee Relations Officer; (b) A unit determination proceeding is initiated pursuant to a comprehensive Federal or State labor relations statute governing such matters in City employment; (c) Following the passage of such comprehensive labor relations statute, a valid and timely petition is filed by any rightful party including the Municipal Employee Relations Officer, provided the MERO is a rightful party, on behalf of the City under such statute.

Sec. 4. Employee Rights.

A. Employees of the City shall have the right to form, join and participate in the lawful activities of Recognized Employee Organizations of their own choosing for the purpose of representation on matters within the scope of representation. Employees of the City shall also have the equal alternative right to refuse to join or participate in the activities of Recognized Employee Organizations and shall have the right to represent themselves individually in their employment relations with the City; provided however, that nothing in this Resolution shall be interpreted or applied to preclude the City from making an agreement with a Recognized Employee Organization to require as a condition of employment the maintaining of membership therein or the paying of periodically required agency fee thereto.

B. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any Recognized Employee Organization because of the exercise of these rights.

C. Professional employees shall have the right to be represented separately from non-professional employees.

D. Management and confidential employees who are members of a Recognized Employee Organization that includes as members employees who are not management or confidential employees shall not:

1. Serve on committees which deal with areas within the scope of representation with respect to non-management and non-confidential employees, or
2. Serve as a representative of such Recognized Employee Organization before City management on matters within the scope of representation with respect to non-management and non-confidential employees, or
3. Otherwise engage in any activity with or on behalf of any Recognized Employee Organization which would result in an actual or apparent conflict of interest.

E. Each Recognized Employee Organization shall notify the Municipal Employee Relations Officer as to its officers and committee members. Such notice shall be given prior to the commencement of the meet and confer process each year and as soon as any changes are made during the year. The burden shall be upon the employee and Recognized Employee Organization in question to establish compliance with this Subsection E.

F. Peace officers are prohibited from forming, joining, or participating in any employee organization except that peace officers may join and participate in any employee organization which:

1. Is composed solely of such peace officers and/or retired peace officers and concerns itself solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and
2. Is not subordinate to any other employee organization, and
3. Is not affiliated with any other employee organizations representing employees within the City.

Sec. 5. City Rights and Responsibilities.

In order to insure that the City is able to carry out its functions and responsibilities as imposed by law, the City of Riverside has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services and therefore the following matters will not be subject to the meet and confer process but shall be within the exclusive discretion of the City; these rights 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; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; exercise complete control and discretion over its organization and the technology of performing its work; determine the context of job classifications; determine issues of public policy; determine the merits, necessity, or organization of any service or activity conducted by the City; expand or diminish services; determine and change the number of locations, and types of operations and the processes and materials to be employed in carrying out all City functions, including but not limited to, the right to subcontract any work, assign work to employees in accordance with requirements as determined by the City and establish and change work schedules and assignments, and establish the days and hours when employees shall work; establish employee performance standards, including but not limited to, quality and quantity standards; establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services; the preceding rights are limited only by the specific provisions of current Memoranda of Understanding, and only to the extent that such provisions are lawful; this limitation does not inhibit City conduct consistent with MOU provisions, nor does it inhibit conduct not specifically prohibited or covered by the MOU.

ARTICLE II - REPRESENTATION PROCEEDINGS

Sec. 1. Policy and Standards for Determination of Appropriate Units

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 effectively and economically to 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. With the exception of Police and Fire sworn safety employees, departmental units shall be presumptively inappropriate.

General 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 similar 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. 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.
- e. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two or more units.

Notwithstanding the above, management, supervisory and confidential employment functions are critical factors in determining appropriateness of bargaining units. Accordingly, management, supervisory and/or confidential employees shall be excluded from units which include non-management, non-supervisory and/or non-confidential employees. No management or supervisory employee may be represented by the same employee organization which represents employees who are supervised by such management or supervisory employee; except in a grievance brought by such management or supervisory employee. The Municipal Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions from units in accordance with the provisions of this Section. Management, supervisory and confidential employees may not represent or negotiate on behalf of any employee organization which represents non-management, non-supervisory and/or non-confidential employees, when that organization is actively representing such non-supervisory, non-management and/or non-confidential employees.

Sec. 2. Filing of Recognition Petition by Employee Organization.

An employee organization that seeks to be formally acknowledged as the Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization, as one of its primary purposes, represents employees in their employment relations with the City.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and by-laws.
- g. 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.

- h. A statement that the employee organization has no restriction on membership based on race, color, creed, religion, sex, national origin, age, marital status, political affiliation or handicap.
- i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that at least forty (40) percent 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. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer.
- k. A request that the Municipal Employee Relations Officer formally acknowledge the petitioner as the Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by duly authorized officer(s) of the employee organization executing it. All changes in such information shall be filed forthwith in a like manner.

Sec. 3. City Response to Recognition Petition.

Upon receipt of the Petition, the Municipal Employee Relations Officer shall promptly determine whether:

- a. There has been compliance with the requirements for a Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Section 1 of this Article II.

If an affirmative determination on the foregoing two matters is made, the Municipal Employee Relations Officer shall so inform the petitioning employee organization, shall post notice on approved bulletin boards of such request for recognition and shall notify other affected recognized employee organizations and shall take no action on said request for thirty (30) days thereafter.

The Municipal Employee Relations Officer's determination under sub-section "a" above or the timelines outlined in Sections 4, 5, or 6 below shall be conclusive and not subject to appeal. In such event the Municipal Employee Relations Officer shall dismiss the Petition.

If the Municipal Employee Relations Officer determines that the unit is inappropriate, an offer to consult thereon with such petitioning employee organization shall be made, and, if such determination thereafter remains unchanged, shall inform that organization in writing. The

petitioning employee organization may appeal such determination in accordance with Section 9 of this Resolution.

A petitioner which seeks to sever certain classifications from a pre-existing unit shall be deemed to seek a presumptively inappropriate unit.

Sec. 4. Open Period for Filing Challenge Petition.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the Recognized Employee Organization of the employees in the same unit, by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least forty (40) percent and otherwise in the same form and manner as set forth in Section 2 of Article II. Thereafter, the Municipal Employee Relations Officer shall determine whether the petition complies with the requirements for a recognition petition. Such determination shall be conclusive and not subject to appeal.

Sec. 5. Procedure for Decertification of Recognized Employee Organization.

A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Municipal Employee Relations Officer only during the thirty (30) day period commencing one hundred eighty (180) days and ending one hundred fifty (150) days prior to the termination date of a Memorandum of Understanding then in effect. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- 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 established appropriate unit and of the incumbent Recognized Employee Organization sought to be decertified as the representative of that unit.
- c. An allegation that the incumbent Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereof.
- d. Proof of employee support that at least forty (40) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Recognized Employee Organization. Such proof shall be submitted for a confirmation to the Municipal Employee Relations Officer within the time limits specified in the first paragraph of this Section.

An employee organization must include in its petition the information required under Section V for Recognition Petitions.

The Municipal Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. The Municipal Employee Relations Officer's determination that the 13 procedural and/or timeline prerequisites have not been met shall be conclusive and not subject to appeal.

The Municipal Employee Relations Officer shall thereupon arrange for a secret ballot election to be held in conformance with Section 8 of this Article II.

Sec. 6. Procedure for Affiliation or Disaffiliation of Recognized Employee Organization.

A petition alleging that the incumbent Recognized Employee Organization seeks to affiliate with, or disaffiliate from, another employee organization may be filed with the Municipal Employee Relations Officer only during the thirty (30) day period commencing one hundred eighty (180) days and ending one hundred fifty (150) days prior to the termination date of a Memorandum of Understanding then in effect. The petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

- 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 established appropriate unit and the employee organization that the incumbent Recognized Employee Organization seeks to affiliate with or disaffiliate from.
- c. An allegation that the incumbent Recognized Employee Organization seeks to affiliate with or disaffiliate from another employee organization.
- d. Proof of employee support that at least forty percent (40%) of the employees in the established appropriate unit desire to affiliate with, or disaffiliate from, another employee organization. Such proof shall be submitted 14 for confirmation to the Municipal Employee Relations Officer within the limits specified in the first paragraph of this Section.

An employee organization must include in its petition the information required under Section 2 for Recognition Petitions.

The Municipal Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. The Municipal Employee Relations Officer's determination that the procedural and/or timeline prerequisite have not been met shall be conclusive and not subject to appeal.

The Municipal Employee Relations Officer shall thereupon arrange for a secret ballot election to be held in conformance with Section 8 of this Article II.

Sec. 7. Procedure for Modification of Established Appropriate Units.

Requests by employee organizations to modify established appropriate units may be filed with the Municipal Employee Relations Officer only during the period specified in Section 5 of this Article II. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Section 2 of this Article, 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 6 hereof; except that the required showing of support shall be forty percent (40%) of the employees to be added to or deleted from the bargaining unit. The Municipal Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II. The Municipal Employee Relations Officer may on his/her own motion propose during the period specified in Section 5 of this Article, that an established unit be modified.

The Municipal 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 may be heard. Thereafter the Municipal Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 1 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Municipal Employee Relations Officer's determination may be appealed as provided in Section 9 of this Article. If a unit is modified pursuant to the motion of the Municipal Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Recognized Employee Organization for such new appropriate unit or units pursuant to Section 2 hereof. An incumbent employee organization shall be entitled automatically to a place on the ballot.

Sec. 8. Election Procedure.

The Municipal Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Municipal Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II 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 employed in permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other 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 formally acknowledged as the Recognized Employee

Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. 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 being applicable to a run-off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit. The twelve (12) month period shall commence with the date the election results are certified and no new petition will be accepted during this period.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Conciliation Service.

Costs of conducting elections shall be borne in equal shares by each employee organization appearing on the ballot.

An employee organization which fails or refuses to participate in arranging for an election shall be deemed to have waived its right to do so and the Municipal Employee Relations Officer shall proceed to arrange for the election. Such waiver shall not deprive the employee organization of a place on the ballot if it is otherwise entitled thereto nor will it relieve such organization from sharing in the cost of such election.

Sec. 9. Appeals.

An employee organization aggrieved by an appropriate unit determination of the Municipal Employee Relations Officer under this Article II may, within ten (10) days of notice thereof, appeal such determination to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof provided to the Municipal Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. Any decision of the City Council shall be final and binding.

Article III

Sec. 1. Meet and Confer Process.

- A. The City, through its representatives, upon request, shall meet and confer in good faith with the representatives of Recognized Employee Organizations regarding wages, hours, and working conditions within the scope of representation for the members of such Recognized Employee Organization.
- B. The City and Recognized Employee Organizations shall not be required to meet and confer on the following matters:
 1. Any subject preempted by federal or state law or by the City Charter;
 2. City responsibilities and rights as defined in Article I, Section 5;

3. Any amendments or proposed amendments to this Resolution.
- C. Where a Recognized Employee Organization desires to meet with the City, through its representatives, on matters within the scope of representation, said organization shall make a request in writing to the Municipal Employee Relations Officer or his designated representative and specify the subjects to be discussed. The Recognized Employee Organization must submit all requests which it intends to have considered no sooner than one hundred eighty (180) days and no later than one hundred fifty (150) days prior to the expiration date of the Memorandum of Understanding then in effect. The City's initial proposal shall be submitted by the close of the second negotiating session.
 - D. If agreement is reached by the representatives of the City and the Recognized Employee Organization, all agreed matters shall be incorporated as joint recommendations to the City Council in a written Memorandum of Understanding signed by the Municipal Employee Relations Officer, or designee, and the duly authorized employee representatives. Said Memorandum of Understanding shall not be binding but said joint recommendations shall be submitted to the City Council for its determination; provided however that once a Memorandum of Understanding has been ratified both by the Recognized Employee Organization and the City Council, said Memorandum of Understanding shall represent a binding agreement between the parties.
 - E. Where the City proposes to take action on matters within the scope of representation, whether such action be by ordinance, resolution, rule or regulation, reasonable written notice shall be given to each Recognized Employee Organization affected thereby, and each shall be given the opportunity, upon request to meet and confer with the City, through its representatives, prior to the adoption of same. In cases of emergency when the City Council determines that an ordinance, resolution, rule or regulation must be adopted immediately without prior notice or meeting with any Recognized Employee Organization, the City shall provide such notice and opportunity to meet at the earliest practical time following the adoption of same. In either event, the Recognized Employee Organization shall be deemed conclusively to have waived any right to meet and confer as to any matter so noticed by the City if, within one (1) week after receipt of said notice, said employee organization fails to deliver to the Municipal Employee Relations Officer a written request for a meeting with respect thereto.

Sec. 2. Resolution of Impasse.

If the meet and confer process has reached impasse as defined by this Resolution either party may initiate the impasse procedures by filing with the other party a request for mediation.

A mediator shall be selected either by mutual agreement between the Recognized Employee Organization and the Municipal Employee Relations Officer or by 19 request submitted to the California Conciliation Service.

The mediator shall meet with the parties in private. The mediator will attempt to facilitate voluntary adjustment of the differences, but shall make no findings of fact nor public recommendations; nor shall he/she take any public position covering the disputed issues.

In the event mediation is unsuccessful in resolving the issues, the unresolved issues may be submitted to the City Council for determination. The City Council may either direct the City's negotiators to attempt further resolution through meeting and conferring or mediation or the City Council may unilaterally implement changes in wages, hours and working conditions consistent with the City's current negotiating positions. The term "consistent with" means one or more, but not necessarily all, of the components of the City's offer, and means less than or equal to, but not in excess of, the City's offer.

Sec. 3. Grievances and Appeals Procedure.

City-wide and other similar grievances which cannot practically be considered and disposed of under the hereinafter prescribed grievance procedure may be processed directly with the Municipal Employee Relations Officer upon written notice to him. If said grievance is not then adjusted to the satisfaction of the aggrieved parties, it may then be submitted to a mutually acceptable impasse procedure. If the grievance is still not adjusted, or if the parties fail to agree upon a mutually acceptable impasse procedure, after all reasonable means of settlement have been exhausted, the aggrieved parties may file a written appeal to the City Council for final determination after recommendation thereon by the Human Resources Board.

Any grievances, including alleged violation of or complaint arising out of administration of ordinances or regulations dealing with administration personnel, salary, or other benefits, any alleged improper treatment of an employee, or any alleged violation of commonly accepted safety practices and procedures shall be considered to be a matter subject to review through the hereinafter prescribed grievance procedure.

1. An attempt shall be made to ascertain all facts and adjust all grievances on an informal basis between the employee and, if he desires, his designated representative and a supervisor in the employee's chain of command up to and including his division head. Presentation of this grievance shall be made within ten (10) working days of the incident causing the grievance.
2. If the grievance is not adjusted to the satisfaction of the employee involved within five (5) working days after the presentation of the grievance, the grievance shall be submitted in writing by the employee and/or his designated representative to the department head within the next ten (10) working days. The department head shall meet with the employee and/or his designated representative within five (5) working days of receipt of the written

grievance and shall deliver his answer to the employee within five (5) working days after the meeting.

3. If the grievance is not adjusted to the satisfaction of the employee involved in the second step, the employee and/or his designated representative shall submit it in writing requesting a hearing to the Human Resources Director for transmittal to the Human Resources Board within five (5) working days after the department head's answer is received. The Chairman of the Human Resources Board shall set the date of the hearing as the first item on the agenda at the next regularly scheduled meeting. The complaining employee shall receive a copy of the notice of the time and place set for the hearing. This must be sent at least five (5) working days prior to the date of the hearing. The Human Resources Board shall submit written findings and conclusions together with such recommendations as it deems proper to the City Manager within ten (10) working days after the completion of the hearings.
4. The City Manager or the Manager Pro Tem shall deliver his answer to the employee and/or his designated representative within five (5) working days after receipt of the Human Resources Board's recommendations. The action of the City Manager or the Manager Pro Tem on the recommendations of the Human Resources Board shall be final and conclusive.

Notwithstanding the above, the City and Recognized Employee Organizations may, through the meeting and conferring process, agree upon any other lawful grievance procedure to be incorporated into a Memorandum of Understanding.

Sec. 4. Payroll Deductions.

Only a Recognized Employee Organization may be provided payroll deductions of membership dues upon the written authorization of employees in the unit represented by the Recognized Employee Organization on forms provided thereon by the Recognized Employee Organization.

Dues deduction shall be for a specified dollar amount, certified to the City by the appropriate Recognized Employee Organization officer, and 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 Payroll. Employee payroll deduction authorizations shall be in uniform amounts for dues deductions. The phrase "specified dollar amount" shall be satisfied if a Recognized Employee Organization has a sliding scale dues structure and has provided the City with a written schedule of said dues structure. The City may deduct for other programs mutually agreed to by the City and affected employee organizations.

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 a Recognized Employee Organization allowed dues deduction is in a non-pay 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 non-pay 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 Recognized Employee Organization dues.

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

All Recognized Employee Organizations who receive dues check-off shall indemnify and hold harmless the City for any loss or damages, claims or causes of action, and legal fees arising from the operation of the check-off of Recognized Employee Organization dues. No Recognized Employee Organization shall have any claim against the City for any deductions made or not made, as the case may be. In addition, all such Recognized Employee Organizations shall refund to the City any amount paid in error upon presentation of supporting evidence.

Notwithstanding the above, the City and Recognized Employee Organization may, through the meet and confer process, agree upon any other lawful organizational security arrangement to be incorporated into a Memorandum of Understanding.

Such organizational security arrangement may be rescinded by a majority of unit employees in a secret ballot election any time during the term of a Memorandum of Understanding; provided, however, that no more than one such election may be held during the term of any such Memorandum.

A request for such vote must be in writing supported by the signatures of at least thirty (30) percent of the employees in the unit. Such request shall be submitted to the Municipal Employee Relations Officer who shall arrange for an election after verifying the thirty (30) percent requirement.

The organizational security arrangement shall be null and void during the period following expiration of a Memorandum containing it and prior to entering into a successor agreement containing the same provision for organizational security.

Sec. 5. Access to and Use of City Facilities.

Subject to reasonable rules and regulations, Recognized Employee Organizations may, with the prior approval of the Municipal Employee Relations Officer, be allowed to use City facilities during non-working time provided space is available, the meeting does not interfere with the City's operations, safety and/or security, the meeting does not interfere with the duties of City employees and the meeting is not for the purpose of seeking new or additional members.

A request for use of facilities must be submitted to the Municipal Employee Relations Officer in writing and must state the purpose or purposes of the meeting.

On-duty employees may not attend such meeting without the prior consent of the Municipal Employee Relations Officer.

The City reserves the right to assess reasonable charges for the use of such facilities. The Recognized Employee Organization shall pay a reasonable fee for any unusual wear or damage to City facilities caused by their activities. 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.

Authorized representatives of Recognized Employee Organizations shall be permitted to transact official organization business on City property only during non-working time and only when it does not interfere with City operation or the duties of City employees. No representatives may enter a work location without the prior consent of the Division Head, Department Head or Municipal Employee Relations Officer.

Solicitation of membership shall not be conducted during working time. 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 time except as may be approved by the Municipal Employee Relations Officer. Failure to observe these requirements may result in limiting or denying access to employee work locations.

Sec. 6. Use of Bulletin Boards.

Recognized Employee Organizations may use portions of City bulletin boards, as designated by the Municipal Employee Relations Officer, under the following conditions:

1. All materials must receive the approval of the Municipal Employee Relations Officer prior to posting of material on the bulletin board.
2. All material must be dated and must identify the Recognized Employee Organization that published them.
3. The actual posting of materials may be done by the Recognized Employee organization as soon as possible after they have been approved. Unless special arrangements are made, materials posted will be removed 31 days after the publication date. Materials which the Municipal Employee Relations Officer considers objectionable will not be posted, provided, however, the Municipal Employee Relations Officer shall first discuss this denial with the Recognized Employee Organization.
4. The City reserves the right to determine where bulletin boards shall be placed and which ones or what portion of them are to be allocated to Recognized Employee Organizations' materials.
5. A Recognized Employee Organization that does not abide by these rules will forfeit its privilege to have materials posted on City bulletin boards.

Sec. 7. Availability of Data.

The City will make available to Recognized Employee Organizations upon request 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 State Statute.

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 Recognized 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 be contrary to merit system principles or would constitute an unwarranted invasion of personal privacy except in those instances where the aggrieved employee gives their written permission to the Municipal Employee Relations Officer that the employee organization may look at files of this type.
2. Working papers on 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 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. Recognized Employee Organizations may contract with the City for such work on a cost basis, providing the City is in a position to provide such service.

Sec. 8. Peaceful Performance of City Services.

Recognized Employee Organizations and other employee organizations covered by this Resolution, their officers, agents, members are prohibited from participating in, encouraging, causing, instigating, and/or condoning any strike, work stoppage, slowdown, speedup, sick-out, sit-in, picketing in connection therewith, refusal or failure fully and faithfully to perform job functions and responsibilities, or otherwise interfering with the City's operations including compliance with the request of other employee organizations to engage in similar activities.

Participation by any employee in activity proscribed by this Section is unlawful and shall subject the employee to disciplinary action, up to and including discharge. The City reserves the right selectively to discipline employees.

If a Recognized Employee Organization, its authorized representatives, or members on its behalf engage in activity proscribed by this Section, the Municipal Employee Relations Officer may, in addition to any other lawful remedies or disciplinary action, suspend or revoke the recognition granted to such Recognized Employee Organization, suspend or cancel any or all payroll deductions payable to such organization, prohibit the use of bulletin boards, prohibit the use of City facilities, prohibit access to former work or duty stations by such Recognized Employee Organization, and withdraw any other rights, privileges, or services accorded the Recognized Employee Organization.

The obligation of the City to meet and confer shall be automatically suspended during any period of Recognized Employee Organization strike or work stoppage as described above.

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 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 ten (10) days after the affected Recognized 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.

Sec. 9. Reasonable Time Off to Meet and Confer.

A 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 with or without loss of compensation. The Recognized Employee Organization shall, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer and the affected Department Head at least two (2) working days in advance of such meetings. The Department Head shall grant permission for employee representatives to attend meetings with the Municipal Employee Relations Officer except in case of emergencies, as determined by the Department Head. Any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.

Sec. 10. Revocation or Suspension of Recognition.

Recognized Employee Organization may be suspended and/or terminated after reasonable notice and opportunity to be heard from for:

1. Repeated or continued failure or refusal to comply with any provisions of this Resolution; or
2. Intentional furnishing of false information to the City in any report required by resolution; or intentionally misrepresenting membership of any employee or that he/she has authorized representation by the organization; or
3. Participation in, encouragement of, or condoning any strike, walkout, slowdown, speedup, sick-out, work stoppage, or other concerted work activity against the City or any person, corporation, business entity or agency acting as a customer, vendor, supplier of the City; or
4. Ceasing to represent employees of the City which may be presumed by failure to respond to inquiries concerning representation after ninety (90) days; or
5. Unlawful discrimination in practice or as contained in the organization's by-laws or constitution.

Sec. 11. Implementation.

For purposes of implementation of this Resolution, exclusively Recognized Employee Organizations as of the effective date of this Resolution shall not be required to stand for election in order to continue such representation until thereafter challenged pursuant to the provisions of this Resolution.

Sec. 12. Construction.

This Resolution shall be administered and construed as follows:

- a. Nothing in this Resolution shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by Federal or State law or City Charter provisions.
- b. This Resolution shall be interpreted so as to carry out its purposes as set forth herein.

Sec. 13. Severability.

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.

Adopted by the City Council and signed by the Mayor and attested by the City Clerk this 9-th day of August, 1983.

Attest:

Mayor of the City of Riverside

City Clerk of the City of Riverside

I, Alice A. Hare, City Clerk of the City of Riverside, California, hereby certify that the foregoing resolution was duly and regularly introduced and adopted by the City Council of said City at its meeting held on the 9th day of August, 1983, by the following vote, to wit:

Ayes: Councilmembers Loveridge, Shepard, Mansfield, Bowers, Buster, Digati, and Frizzel.

Noes: None

Absent: None

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this 9th day of August, 1983.

City Clerk of the City of Riverside