

RESOLUTION NO. 9576

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA,
APPROVING THE REVISED CITY OF INDIO EMPLOYER-EMPLOYEE RELATIONS
RESOLUTION**

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, pursuant to the aforesaid provisions of the Government Code, the City of Indio has duly established by Resolution Nos. 2228, 2237, 2893, 2997 and 3173 rules and regulations governing the administration of employer-employee relations within the City of Indio; and

WHEREAS, rules for the conduct of Employer-Employee Relations have been changed pursuant to State law and case law, and for convenience of administration the City Council desires to revise and incorporate such changes into one Resolution establishing said rules and regulations for the City of Indio.

**THE CITY COUNCIL OF THE CITY OF INDIO DOES HEREBY FIND,
RESOLVE AND ORDER AS FOLLOWS:**

SECTION 1. TITLE OF RESOLUTION

This Resolution shall be known as the Employer-Employee Relations Policy Resolution of the City of Indio.

SECTION 2. STATEMENT OF PURPOSE

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

SECTION 3. DEFINITIONS

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

3.1 "Appropriate unit" ---means a unit of employee classifications or positions established pursuant to Section 10 of this Resolution.

3.2 "City" ---means the City of Indio, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management employee as herein defined.

3.3 "Confidential employee" ---means an employee who, in the course of his or her duties, has access to confidential information relating to the City's administration of employer-employee relations.

3.4 "Consult in good faith" ---means to communicate orally or in writing 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 scope of representation, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Section 20 hereof.

3.5 "Days" ---means calendar days unless expressly stated otherwise herein.

3.6 "Employee" ---means any person regularly employed by the City except those persons elected by popular vote.

3.7 "Exclusively Recognized Employee organization" ---means an organization which has been formally acknowledged by the City as the sole employee organization representing employees in an appropriate representation unit pursuant to Section 10 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. Such recognition status may only be challenged as set forth herein.

3.8 "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.

3.9 "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, on which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

3.10 "Management employee" ---means:

3. 10.1 Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the City Manager and department heads; and

3.10.2 Any employee having supervisory authority, in the interest of the City, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly 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.

3.11 "Mediation or conciliation" ---means the efforts of an impartial third person, or persons, functioning as an intermediary, to assist the parties in reaching a voluntary resolution to an impasse through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

3.12 "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 a recognized employee organization of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation in an effort to:

3.12.1 Reach agreement on those matters within the authority of such Representatives to be incorporated in a Memorandum of Understanding; and

3.12. 2 Reach agreement on what will be recommended to the City Council on those matters within the decision-making authority of the City Council.

3.13 "Municipal Employee Relations Officer" means the City's principal representative in all matters of employer-employee relations designated pursuant to Section 18 of this Resolution or his duly authorized representative.

3.14 "Peace officer" ---means this term as defined in California Penal Code Section 830.

3.15 "Professional employee" ---means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists, or employees as may be defined as "Professional" by the Federal Fair Labor Standards Act.

3.16 "Proof of Employee Support" ---means (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorizations using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that the 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. The words "recently signed" shall mean within the (90) days prior to the filing of such proof of support.

3.17 "Resolution" ---means, unless the context indicates otherwise, this Resolution.

3.18 "Scope of representation" ---means all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order, nor any of the matters excluded from meeting and conferring by the provisions of Section 5 of this Resolution.

3.19 Terms not defined herein shall have the meanings as set forth in the Meyers-Milias-Brown Act, commencing at Government Code Section 3500 (MMBA).

SECTION 4. EMPLOYEE RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters within the scope of representation.

4.1 In conformance with State law 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.

4.2 No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of his/her exercise of these rights.

SECTION 5. CITY RIGHTS AND RESPONSIBILITIES

Nothing contained herein shall be deemed to supersede the provisions of State law, City ordinances, resolutions and rules which establish and regulate the merit and civil service system. Nothing contained herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, including but not limited to the following:

5.1 To exclusively determine the mission of its constituent departments, commissions and boards;

5.2 To determine the merits, necessity, organization, level and standards of any service or activity of the City;

5.3 To expand, diminish, add or eliminate City services;

5.4 To determine and change the facilities, methods, means and personnel by which governmental operations are to be conducted;

5.5 To maintain the efficiency of governmental operations;

5.6 To determine and change the number of locations, relocations, 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 or operation;

5.7 To determine the size and composition of the work force, to assign work to employees and direct its employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments, and to determine the days and hours when employees shall work;

5.8 To relieve employees from duty because of lack of work or other non-disciplinary reasons;

5.9 To discharge, suspend, or otherwise discipline employees in accordance with procedures established in an applicable Memorandum of Understanding, personnel rules and/or departmental policy manual;

5.10 To determine the content of job classifications;

5.11 To hire, transfer, promote, and demote employees for non-disciplinary reasons;

5.12 To determine policies, procedures and standards for selection, training and promotion of employees;

5.13 To establish employee performance standards including, but not limited to, quality and quantity standards;

5.14 To maintain the efficiency of governmental operations:

5.15 To exercise complete control and discretion over its organization and the technology of performing its work and services;

5.16 To establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services; and

5.17 To take all necessary actions to carry out its mission in emergencies.

The City, in exercising these rights and functions, will not discriminate against any employee because of membership or non-membership in any employee organization.

SECTION 6. MEETING AND CONFERRING

6.1 The City, through its representatives, shall meet and confer in good faith with representatives of any recognized employee organization regarding matters within the scope of representation including wages, hours, and other terms and conditions of employment for its members in the appropriate unit for which such organization is recognized. The City shall not be required to so meet and confer on the following matters:

6.1.1 Any subject preempted by Federal or State law;

6.1.2 Any of the matters specified in Section 5 of this Resolution.

6.1.3 Any amendments or proposed amendments to this Resolution.

6.2 Whenever 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 and specify the subjects to be discussed.

6.3 Representatives of recognized employee organizations shall be required to meet and confer in good faith at mutually agreeable times and places jointly with the City's representatives whenever requested to do so by the Municipal Employee Relations Officer, or his designee.

6.4 The recognized employee organization shall submit its requests which it intends to have considered for the budget for the next fiscal year by the first day of February immediately preceding the commencement of said fiscal year. Requests submitted after that February date shall not be considered for the ensuing fiscal year. The meet and confer process shall commence thereafter upon request and shall be completed no later than May 1.

6.5 If agreement is reached by the representatives of the City and the recognized employee organization by May 1, all agreed matters shall be incorporated as joint recommendations to the City Council in a written memorandum of understanding signed by the City Manager, or his 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.

6.6 If agreement is not reached by May 1, the procedures set forth in Section 19 of this Resolution shall be applicable.

6.7 Whenever the City proposes to take action on matters within the scope of representation, the provisions of Section 8 of this Resolution shall be applicable and written notice shall be given in accordance therewith. In such event, the meet and confer process with respect thereto shall be completed within a reasonable time period set forth in said notice.

6.8 In the event there is a dispute over the scope of representation or as to whether a matter is subject to meeting and conferring in good faith and the parties do not voluntarily resolve such dispute, the issue shall be submitted to the Attorney for the City, who shall make recommendations to the parties. If not resolved pursuant thereto within ten (10) working days, the matter shall be submitted to the City Council for its determination.

6.9 The time limits provided herein for the meet and confer process may be extended only by action of the City Council pursuant to a joint request by the representatives of the City and the recognized employee organization involved.

SECTION 7. CONSULTATION IN GOOD FAITH --SCOPE

All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation. The City, through its representatives, shall consult in good faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them. Advance notice of matters subject to consultation, but outside the scope of representation, is desirable but not mandatory.

SECTION 8. ADVANCE NOTICE

Reasonable written notice shall be given to each 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 by any board or commission of the City, and each shall be given the opportunity to meet with such body prior to adoption.

In cases of emergency when the City or any board or commission of the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City or the board or commission of the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

SECTION 9. REPRESENTATION PROCEEDINGS

9.1 Recognition as the exclusively recognized employee organization for an appropriate unit. An employee organization that seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the majority of employees in an appropriate unit shall file a Petition for Recognition with the Municipal Employee Relations Officer containing all of the following information and documentation specified below. An employee organization seeking recognition without majority status shall file a petition meeting the same requirements, except for 9.1.11 and modifying the statement in 9.1.12, as appropriate.

9.1.1 Name and address of the employee organization.

9.1.2 Names and titles of its officers.

9.1.3 Names of employee organization representatives who are authorized to speak on behalf of its members.

9.1.4 A statement that the employee organization has, as one of its primary purposes, representation of employees in their employment relations with the City.

9.1.5 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.

9.1.6 Certified copies of the employee organization's constitution and by-laws.

9.1.7 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 to the employee organization for any purpose.

9.1.8 A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.

9.1.9 The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

9.1.10 Written proof that at least 30% of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City; provided, however, that the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party.

9.1.11 A request that the Municipal Employee Relations Officer recognize the employee organization as the Exclusively Recognized Employee Organization representing the majority of employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

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

9.1.13 Upon receipt of the Petition for Recognition, the Municipal Employee Relations Officer shall determine whether:

9.1.13.1 There has been compliance with the requirements of the Petition for recognition, and

9.1.13.2 The proposed unit is an appropriate unit. If an affirmative determination is made by the Municipal Employee Relations Officer on the foregoing two matters, she/ he shall give notice of such request for formal recognition to the employees in the unit and shall take no action on said request for 30 days thereafter; if either of the foregoing matters are not affirmatively determined, the Municipal Employee Relations Officer shall inform the employee organization of the reasons therefor in writing.

9.1.14 Within 30 days of the date such notice to employees is given, any other employee organization (hereinafter referred to as the "challenging organization") may seek formal recognition in an overlapping unit by filing a Petition for Recognition, provided, however, that such challenging organization must submit written proof that it represents at least 30% of the employees in such unit. The Municipal Employee Relations Officer shall hold a hearing on such overlapping Petitions, at which time all affected employee organizations shall be heard. Thereafter, the appropriate unit or units as between such proposed overlapping units shall be determined by the Municipal Employee Relations Officer in accordance with the criteria set forth in Section 10 of this Resolution.

9.1.15 If the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than 50% of the employees in such unit, the Municipal Employee Relations Officer may, in his discretion, grant recognition to such employee organization without a secret ballot election, unless recognition based solely on a signed petition, authorization cards or union membership cards is required under the MMBA, in which case it shall be granted.

9.1.16 When an employee organization in the unit found to be appropriate submits written proof that it represents at least 30% of the employees in such unit, and it does not qualify for or has not been granted recognition pursuant to Sub-Section 9.1.15 above, the Municipal Employee Relations Officer shall arrange for a secret ballot election to be conducted by the City Clerk (or such other method normally used by the City to conduct an election), the California State Conciliation Service, the American Arbitration Association, or some agreed upon third party. All challenging organizations which have submitted written proof that they represent at least 10% of the employees in the unit found to be appropriate, and have submitted a Petition for Recognition as required by Section 9 of this Resolution, shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons regularly employed in permanent positions within that unit who were employed during the pay period immediately prior to the date which is 15 days before the election, including those who did not work during such period because of illness, vacation or authorized leaves of absence and

who are employed by the City in the same unit on the date of the election. An employee organization shall be granted recognition following an election or run-off election if:

9.1.16.1 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., the votes of at least 50% of all eligible employees plus 1), or

9.1.16.2 At least 60% of the total number of employees in the unit eligible to vote have voted in the election or run-off election, and an employee organization receives a numerical majority of all votes cast in the election (i.e., 50% of the votes cast plus 1).

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

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

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

9.1.18 Confidential employees may not be included in the same unit with non-confidential employees and confidential employees may not act as a representative of any employee organization on matters within the scope of representation; and provided further, that confidential employees may not engage in any activity with or on behalf of any employee organization which would result in an actual or apparent conflict of interest.

9.1.19 Classifications of management employees shall be included in one or more appropriate units consisting solely of other management employees. Management employees may not represent any employee organization which represents non-management employees of the City on matters within the scope of representation, and management employees may not engage in any activity, whether or not on behalf of any employee organization, which would result in an actual or apparent conflict of interest; provided, however that management employees may represent a recognized employee organization when dealing with the City on matters within the scope of representation in an appropriate unit which consists solely of management employees.

9.1.20 Professional employees shall have the right to be represented separately from nonprofessional employees.

9.2 Decertification of established unit

A Petition for Decertification alleging that a recognized employee organization is no longer the representative of the majority of employees in an established appropriate unit may be filed with the Municipal Employee Relations Officer only during the months of October or November of each year following the first full year of recognition (e.g., for an employee organization granted recognition between December 1, 1968, and September 30, 1969, a Petition for Decertification could not be filed until October, 1970). The Petition for Decertification may be filed by two or more employees, or their representative, or an employee organization. The Petition, including all accompanying documents, shall be verified by the person signing it, under oath, that its contents are true, correct and complete. It may be accompanied by a Petition for Recognition by a challenging organization. The Petition for Decertification shall contain the following information:

9.2.1 The name, address and telephone number of the petitioner and a designated representative authorized to receive notices and requests for further information;

9.2.2 The name of the recognized employee organization;

9.2.3 An allegation that the recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts; and

9.2.4 Written proof that at least 30% of the employees in the unit do not desire to be represented by the recognized employee organization. Such written proof shall be dated within six months of the date upon which the petition is filed and shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.

9.2.5 The Municipal Employee Relations Officer shall arrange for a secret ballot election to determine if the recognized employee organization shall retain its recognition rights. The recognized employee organization shall be decertified if a majority vote for decertification as computed under either Sub-section 9.1.17.1 or 9.1.17.2.

9.2.6 There shall be no more than one valid decertification election in the same unit in any 12 month period.

9.3 Modification of established unit

9.3. 1 A Petition for Modification of an established unit may be filed by an employee organization with the Municipal Employee Relations Officer during the period for filing a Petition for Decertification. The Petition for Modification shall contain all of the information set forth in Section 9.1 of this Resolution, along with a statement of all relevant facts in support of the proposed modified unit. The Petition shall be accompanied by written proof that at least 50% of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the City;

provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party.

9.3.2 The Municipal Employee Relations Officer shall hold a hearing on the Petition for Modification, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between the existing unit and the proposed modified unit. If the Municipal Employee Relations Officer determines that the proposed modified unit is the appropriate unit, then he shall follow the procedures set forth in Section 9.1 of this Resolution for determining recognition rights in such unit.

9.3.3 Where the petition for modification seeks to either add certain classifications to an existing unit or sever certain classification from an existing unit, the petition must be supported by written proof that fifty percent (50%) of the employees within the classification or classifications sought to be added to or severed from such existing unit have designated the petitioning employee organization to represent them in their employment relations with the City. In determining the recognition rights in the proposed modified unit, if found to be appropriate, the eligible voters shall consist of those employees who are employed in the classification or classifications sought to be added to or severed from such existing unit.

9.3.4 The Municipal Employee Relations Officer may by his/her own motion initiate a modification(s) of an existing unit by giving written notice of the proposed modification(s) to such affected recognized employee organizations provided that such notice is given within the time period allowed for the filing of a Petition for Decertification. Thereafter the Municipal Employee Relations Officer shall hold a hearing concerning the proposed modification at which time all affected employee organizations shall be heard. The Municipal Employee Relations Officer shall then determine the composition of the appropriate unit and shall give notice thereof to all affected employee organizations. If a unit is modified pursuant to the motion of the Municipal Employee Relations Officer hereunder, recognition shall be determined in a manner consistent with the provisions of Sub-Sections 9.1 and 9.3 of this Resolution.

9.4 Procedure for Processing Severance Requests

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 part of a larger established unit represented by another employee organization. The timing, form and processing of such request shall be as specified in Section 9.3 for modification requests.

9.5 Appeals

Any employee organization aggrieved by a determination of the Municipal Employee Relations Officer made pursuant to Section 9 of this Resolution may appeal such

determination to the City Council for final decision within fifteen (15) days after receipt of notice of the Municipal Employee Relations Officer's determination. Appeals to the City Council shall be filed in writing with the City Clerk and a copy thereof served on the Municipal Employee Relations Officer. The decision of the City Council shall be final and binding.

9.6 Time Limits and Percentages

The Municipal Employee Relations Office may adjust any time limit or percentage specified in this section where required pursuant to binding court or administrative agency precedent or any law and shall give notice of such determination to any impacted employee organization or employees.

9.7 Duration of recognition

When an employee organization has been recognized, such recognition shall remain in effect for one year from the date thereof and thereafter until such time as the Municipal Employee Relations Officer shall determine, on the basis of a secret ballot election conducted in accordance with the foregoing rules, that the recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be modified as provided in Sub-Section 9.3 of this Resolution.

9.8 Employee Organization Activities—use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment, e-mail and other resources shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, and shall be limited to lawful activities consistent with the provisions of this resolution that pertain directly to the employer-employee relationship and not such internal organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

SECTION 10. APPROPRIATE UNIT

The Municipal Employee Relations Officer, after reviewing the petition filed by an employee organization seeking recognition as a recognized employee organization, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such employees, but no employee may be represented by more than one recognized employee organization for the purposes of this Resolution. The following factors, among others, are to be considered in making such determination, which unit will assure employees the fullest freedom in the exercise of rights set forth under this Resolution.

10.1 The history of employee relations in the unit;

10.2 among other employees of the City; and

10.3 in similar public employment;

10.4 The effect of the unit on the efficient operation of the City and sound employer-employee relations;

10.5 The extent to which the employees have common skills, working conditions, job duties or similar educational requirements;

10.6 The rights of professional employees (see Sub-Section 9.1.21) and the restrictions on representation of confidential employees (see Sub-Section 9.1.19) and management employees (see Sub-Section 9.1.20); and

10.7 The effect on the existing classification structure of dividing a single classification among two or more units. Provided, however, that no unit shall be established solely on the basis of the extent to which employees in the proposed unit have been organized.

10.8 Effect of differing legally mandated impasse resolution procedures.

10.9. 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.

10.10 Assignment or Non-assignment of new job classification to unit

The City Municipal Employee Relations Officer shall, after consultation with affected employee organization.

10.10.1 Determine whether each newly established job classification is "Confidential", "Supervisory", "Management", or "Professional".

10.10.2 Assign or not assign the new job classification to an existing unit pursuant to the criteria for determination of an appropriate unit established in this resolution; and

10.10.3 Identify as "unrepresented" any new job classification which does not meet the criteria established herein for assignment to an existing unit and is therefore not assigned to an existing unit.

10.10.4 Upon identifying, assigning or not assigning a new job classification to a unit for purposes of representation, the Municipal Employee Relations Officer shall provide

written notice of the identification and assignment or non-assignment to: recognized employee organizations, the department head(s) of affected departments with instructions to distribute and/or post the notice to affected employees, if any.

SECTION 11. AGENCY SHOP AGREEMENTS

11.1 Notwithstanding Government Code Section 3502 or any other provision of the Meyers-Miliias-Brown Act, or any other law, rule, or regulation, an agency shop agreement may be negotiated between the City and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent pursuant to these rules. "Agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

11.2 In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the City and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may be filed only after the recognized employee organization has requested the City to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the State Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from a claim, demand, or other action relating to the public agency's compliance with the agency fee obligation.

11.3 An employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support a public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to a fund of that type chosen by the employee. Proof of the

payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization, in the absence of payroll deduction.

11.4 An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for that type of vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit, (2) the vote is by secret ballot, and (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to 11.2, above.

11.5 An agency shop arrangement shall not apply to management employees.

11.6 A recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the city, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed by this chapter, or required to file financial reports, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

11.7. Representation of members; membership admission and dismissal regulation; right of personal appearance. Recognized employee organizations shall have the right to represent their members in their employment relations with public agencies. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public agency.

SECTION 12. 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 employee organization shall, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer at least two working days in advance of such meetings. Provided, further:

12.1 That no employee representative shall leave his or her duty or work station or assignment without specific approval of the department head or other authorized City management official; and

12.2 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 13. ACCESS TO WORK LOCATIONS

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

13.2 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.

SECTION 14. USE OF CITY FACILITIES

14.1 Recognized employee organizations may, with the prior approval of the Municipal Employee Relations Officer, be granted the use of City facilities during non-work hours for meetings of City employees provided space is available, and provided further that such meetings are not used for organizational activities or membership drives of City employees. All such requests shall be in writing and shall state the purpose or purposes of the meeting. A copy of the meeting agenda shall be furnished to the Municipal Employee Relations Officer as soon as it is available, but in no event less than 24 hours prior to such meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

14.2 The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, and writing boards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

SECTION 15. USE OF BULLETIN BOARDS

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

15.1 All materials must receive the approval of the department or division head in charge of the department bulletin board. (In some situations, particularly where larger employee organizations are involved, centralized approval by the City Manager or his/her designated alternate may be more appropriate.)

15.2 All materials must be dated and must identify the organization that published them.

15.3 The actual posting of materials will be done by the City 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 department head considers objectionable will not be posted, provided, however, that the department head shall first discuss this denial with the chief executive officer.

15.4 The City reserves the right to determine where bulletin boards shall be placed and what portion of them shall be allocated to employee organizations' materials.

15.5 An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

SECTION 16. AVAILABILITY OF DATA

16.1 The City will make available to recognized 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 Section 6250-6260.

16.2 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.

16.3 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 such form as to not disclose the source.

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

16.4.1 Personnel, medical and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy or be contrary to merit system principles;

16.4.2 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;

16.4.3 Records pertaining to pending litigation to which the City is a party or to claims or appeals which have not been settled;

16.4.4 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.

16.5 The City will also make available such data and will meet and confer the regard to the circumstances for providing such data as may be required by the MMBA.

SECTION 17. PEACEFUL PERFORMANCE OF CITY SERVICES

17.1 Participation by any employee in a strike or work stoppage that is unlawful shall subject the employee to disciplinary action, up to and including discharge.

17.2 No employee organization, its representatives, or members shall engage in, cause, instigate, encourage, or condone an unlawful strike or work stoppage of any kind.

17.3 If a recognized employee organization, its representatives, or members engage in, cause, instigate, encourage, or condone an unlawful strike or work stoppage of any kind, in addition to any other lawful remedies or disciplinary actions, the Municipal Employee Relations Officer may suspend or revoke the recognition granted to such employee organization, suspend or cancel any or all payroll deductions payable to such organization, prohibit the use of City facilities, and prohibit access to former work or duty stations by such organization.

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

17.5 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 or the 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 7 days after the affected employee organization first

receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to any other appeal.

SECTION 18. DESIGNATION OF MUNICIPAL EMPLOYEE RELATIONS OFFICER

18.1 The City Manager or his/her representative is hereby designated the Municipal Employee Relations Officer and is hereby authorized to represent the City as its principal representative in all matters of employer-employee relations with authority to meet and confer in good faith on behalf of the City on matters within the scope of representation including wages, hours and other terms and conditions of employment.

18.2 The City Council may from time to time designate, by Resolution, another person or persons as the Municipal Employee Relations Officer who shall be the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment.

18.3 The Municipal Employee Relations Officer designated herein and as hereafter designated is authorized to delegate these duties and responsibilities.

SECTION 19. RESOLUTION OF IMPASSES

19.1. Optional Mediation

If after a reasonable period of time, representatives of the public agency and the recognized employee organization fail to reach agreement, the city and the recognized employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties.

Costs of mediation shall be divided one-half to the public agency and one-half to the recognized employee organization or recognized employee organizations.

19.2. For those employees subject to the jurisdiction of the Public Employee Relations Board the following additional options to resolve impasse will apply, upon request of the City or the Exclusively Recognized Employee Organization:

19.2.1 If a mediator is agreed to and is unable to effect settlement of the controversy within 10 days, or after such time as maybe mutually agreed subsequent to his or her appointment; or, if there is otherwise no agreement, the employee organization may request that the parties' differences be submitted to a fact-finding panel. Within five days after receipt of the written request, each party shall select a person to serve as its member of the fact-finding panel. The Public Employment Relations Board shall, within five days after the selection of panel members by the parties, select a chairperson of the fact-finding panel.

19.2.2 Within five days after the PERB selects a chairperson of the fact-finding panel, the parties may mutually agree upon a person to serve as chairperson in lieu of the person selected by the board.

19.2.3 The panel shall, within 10 days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. For the purpose of the hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

19.2.4 In arriving at their findings and recommendations, the fact-finders shall consider, weigh, and be guided by all the following criteria:

19.2.4.1 State and federal laws that are applicable to the employer.

19.2.4.2 Local rules, regulations, or ordinances.

19.2.4.3 Stipulations of the parties.

19.3.4.4 The interests and welfare of the public and the financial ability of the public agency.

19.3.4.5 Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.

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

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

19.3.4.8 Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

SECTION 20. DISPUTES NOT SETTLED WITHIN 30 DAYS AFTER IMPASSE AND/OR THE APPOINTMENT OF APPLICABLE FACT-FINDING PANEL

20.1 If the dispute is not settled within 30 days after the appointment of the fact-finding panel, or, upon agreement by both parties for an extended period, the panel shall make findings of fact and recommend terms of settlement for mandatory subjects of

bargaining on each issue at impasse presented to them by the parties, at the inception of the fact finding process which shall be advisory only. The fact-finders shall submit, in writing, any findings of fact and recommended terms of settlement to the parties before they are made available to the public. The City shall make these findings and recommendations publicly available within 10 days after their receipt.

20.2 The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's résumé on file with the board. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and the board. The chairperson may submit interim bills to the parties in the course of the proceedings, and copies of the interim bills shall also be sent to the board. The parties shall make payment directly to the chairperson.

20.3 Any other mutually incurred costs shall be borne equally by the City and the employee organization. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

20.4. Impasse; implementation of last, best, and final offer. After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than 10 days after any fact-finders' written findings of fact and recommended terms of settlement have been submitted to the parties pursuant to this resolution, may, after holding a public hearing regarding the impasse, implement its last, best, and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of the last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on mandatory matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as otherwise required by law.

SECTION 21. 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 22. CONSTRUCTION

22.1 Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal or State laws or City Charter provisions.

22.2 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., but are not intended to conflict with Division 4, Title 1 of the Government Code of the State of California (Sections 3500, et seq.), as amended.

SECTION 23. SEPARABILITY

In the event any provision or portion thereof contained in this Resolution, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of the Resolution and the application of such provision, or portion thereof, to other persons or circumstances shall be deemed severable, shall not be affected thereby, and shall remain in full force and effect.

SECTION 24. SUPERSEEDURE

The provisions of this Resolution shall supersede and take precedence over the provision of any prior resolution, minute order, or statement or ruling by the City Council of the City of Indio dealing with the same subjects and matters as are covered herein, including but not limited to Resolution Nos. 2228, 2237, 2893, 2997 and 3173 all of which are hereby expressly repealed.

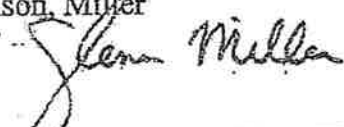
SECTION 25. CERTIFICATION

The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 7th day of November 2012, by the following vote:

AYES: Holmes, Torres, Ramos Watson, Wilson, Miller

NOES: None



GLENN MILLER, MAYOR

ATTEST:



CYNTHIA HERNANDEZ, CMC
CITY CLERK

