

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF FOUNTAIN VALLEY RELATING TO
EMPLOYER-EMPLOYEE RELATIONS WITHIN
SAID CITY**

WHEREAS, the Meyers Miliias Brown Act, Government Code 3500 et seq. established the law between local agencies and its employees and authorized public entities to adopt reasonable rules and regulations pertaining thereto after consultation in good faith with recognized employee organizations; and

WHEREAS, the City Council adopted such reasonable rules and regulations in 1974 by Resolution No. 7221; and

WHEREAS, since that resolution the law has been amended and new changes have occurred requiring amendment to those rules and regulations, including but not limited to a new requirement for fact-finding; and

WHEREAS, the City's Municipal Employee Relations Representative has met with the recognized employee organizations regarding the following rules and regulations and the City Council does hereby desire to adopt these rules and regulations to supersede those set forth in Resolution No. 7221;

NOW, THEREFORE, the City Council of the City of Fountain Valley does hereby RESOLVE as follows:

ARTICLE I – TITLE OF RESOLUTION

This resolution shall be known as the "Employer-Employee Relations Resolution of the City of Fountain Valley".

ARTICLE II – 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, 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 the merit system, or which provide for 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 and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted

by federal or state law. 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, which include among others: The exclusive right to determine the mission of its constituent departments, commission 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; determine the content of job classifications; subcontract work; 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; and exercise complete control and discretion over its organization and the technology of performing its work.

ARTICLE 3 - DEFINITIONS

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

- 3.01 - "**Appropriate Unit**" means a unit of employee classes or positions, established pursuant to Article 6 hereof.
- 3.02 - "**City**" means the City of Fountain Valley, and where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.
- 3.03 - "**Confidential Employee**" means an employee who, in the course of his/her duties, has access to confidential information relating to the City's administration of employer-employee relations.
- 3.04 - "**Consult/Consultation in Good Faith**" means to communicate orally or in writing with all effected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining view or advising of proposed actions in a good faith effort to reach a consensus; 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 an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article 9 hereof.
- 3.05 - "**Day**" means calendar day unless expressly stated otherwise.
- 3.06 - "**Employee**" means any person regularly employed by the City except elected officials.
- 3.07 - "**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 management and employees or employee organizations.
- 3.08 - "**Employee, Management**" means employees having the responsibility for formulating, administering or managing the implementation of City policies

and programs including, but not limited to, all employees listed in Exhibit "A" attached hereto.

- 3.09 - "**Employee Relations Officer**" means the City Manager or his/her duly authorized representative.
- 3.10 - "**Employee, Supervisory**" means employees having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them or to adjust their grievances, or effectively to recommend any of the foregoing actions, 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 - "**Exclusively Recognized Employee Organization**" means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article 6 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.
- 3.12 - "**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 which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- 3.13 - "**Mediation**" means the effort of an impartial third person functioning as an intermediary, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice.
- 3.14 - "**Meet and Confer in Good Faith**" means the 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 in order to freely exchange information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation. This does not compel either party to agree to a proposal or to make a concession.
- 3.15 - "**Municipal Employee Relations Representative**" means the City's principal representative in all matters of employee-employer relations.
- 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 prior to its submission, or 2) a verified authorization petition or petitions recently signed and personally dated by an employee or 3) employee dues deduction authorization, using the payroll register for the period immediately prior to the

date a petition is filed hereunder, except that dues deduction authorizations for more than one (1) employee organization for the account of any one (1) 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 works recently signed shall mean within six (6) months prior to the filing of a petition.

- 3.17 - **"Recognition"** means acknowledgment by the Municipal Employee Relations Representative that an employee organization is the exclusive representative of all the employees in an appropriate unit, except employees in such unit who have elected to represent themselves.
- 3.18 - **"Recognized Employee Organization"** means an employee organization which has been granted recognition by the Municipal Employee Relations Representative and the employee organization which has the right to meet and confer in good faith as the exclusive organizational representative of all members of an appropriate unit except those members in such unit who elect to represent themselves.
- 3.19 - **"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. City rights, as defined in Article 5 herein, are excluded from the scope of representation.

ARTICLE 4 – EMPLOYEE RIGHTS

Section 4.01 – Rights Enumerated

Employees shall have the following rights:

- A. To form, join and participate in the activities of employee organizations of their own choosing for the purposes of representation on all matters of employee relations.
- B. To refrain from joining or participating in the activities of employee organizations.
- C. To represent themselves individually at any time in their employee relations.

Section 4.02 – Interference Prohibited

Neither the City, nor any employee organization, nor any employee, shall interfere with, intimidate, restrain, coerce, or discriminate against any employee or employees because of the rights guaranteed hereunder.

Section 4.03 – Management and Confidential Employees

Management and confidential employees who are members of employee organizations which represent employees who are not management or confidential employees shall

not represent such employee organizations on matters within the scope of representation.

Section 4.04 – Supervisory Employees

Supervisory employees who are members of employee organizations which represent employees who are not supervisory employees shall not serve as representatives of such organization in any stage of the grievance procedure.

Section 4.05 – No Strike Provision

Nothing herein shall be construed to give employees the right to strike, and any employee who, directly or indirectly by any means whatsoever, encourages, causes or participates in any strike, walkout, stoppage or retarding of work, or any other interference with the conduct of the City's operations, or who uses sick leave to accomplish said purposes, shall be subject to discharge or other disciplinary action in the sole discretion of the City.

ARTICLE 5 – CITY RIGHTS

Section 5.01 – Rights Enumerated

Except as otherwise specifically provided for in this resolution, or amendments or revisions thereto, the City has and retains the sole and exclusive rights and functions of management, including, but not limited to, the following:

- A. To determine the merits, necessity, nature or extent of services to be performed, as well as, the right to determine and implement its public function and responsibility, and the mission of its constituent departments, commissions and boards; and to determine budgets and appropriations of funds and to set municipal fees and charges.
- B. To manage all facilities and operations of the City, including the methods, means and personnel by which the City's operations are to be conducted.
- C. To schedule working hours, allot and assign work.
- D. To establish, modify or change work schedules or standards.
- E. To direct the working forces, including the right to hire, promote, demote, or transfer any employee.
- F. To determine the location of all plants and facilities.
- G. To determine the layout and the machinery, equipment or materials to be used.
- H. To determine processes, techniques, methods and means of all operations, including changes or adjustments of any machinery or equipment.
- I. To determine the size and composition of the working force.

- J. To determine the policy and procedure affecting the selection or training of new employees.
- K. To establish, assess and implement employee performance standards, including, but not limited to, quality and quantity standards; the assessment of employee performances; and the procedures for said assessment.
- L. To control and determine the use and location of City's property, material, machinery and equipment.
- M. To schedule the operation of and to determine the number and duration of shifts.
- N. To determine measures to promote safety and to protect health and property.
- O. To transfer work from one job to another or from one plant or unit to another.
- P. To introduce new, improved or different methods of operations, or to change the existing methods.
- Q. To relieve employees from duty for lack of work or for other reasons deemed legitimate by management.
- R. To reprimand, suspend, discharge or otherwise discipline employees for cause. The judgment of management shall govern except for an abuse of discretion.
- S. To establish and determine job classifications.
- T. To contract or subcontract construction, services, maintenance, distribution or any other work with outside public or private entities.
- U. To take such other and further action as may be necessary to organize and operate the City in the most efficient and economical manner for the best interest of the public it serves.

Section 5.02 – City's Designated Representative

The City Council hereby designates the City Manager, or his/her duly authorized representative, as 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, also known as the Municipal Employee Relations Representative or Employee Relations Officer.

ARTICLE 6 – REPRESENTATION PROCEEDINGS FOR EMPLOYEE ORGANIZATIONS

Section 6.01 – Filing of Petition for Recognition

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit

shall file a petition with the Employee Relations Representative containing the following information and documentation within the time limits set forth in this Resolution:

- 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 has, as one of its primary purposes, representing employee in their employment relations with the City.
- E. A statement whether the employee organization is a chapter or local 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 (2) 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 recognizes that the provisions of Section 923 of the California Labor Code are not applicable to City employees, and that the organization does not and will not assert the right to call, engage in, encourage, assist or condone, in any manner, any strike, work stoppage, slow down, sick in, or other concerted refusal to work by employee of the City.
- I. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- J. The job classification or position titles of employees in the unit claimed to be appropriate and the number of member employees therein.
- K. A statement that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that a majority of the employees in the unit claimed to be appropriate, have designated the employee organization to represent all employees in such unit in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Representative.
- L. A request that the Employee Relations Representative formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

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 the duly authorized officer(s) of the employee organization executing it.

Section 6.02 – City Response to Recognition Petition

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

- A. There has been compliance with the requirements of the Recognition Petition, and
- B. The proposed representation unit is an appropriate unit in accordance with Section 6.09 of this Resolution.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two (2) matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing.

The petitioning employee organization may appeal such determination in accordance with Section 6.11 of this Resolution.

Section 6.03 – Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a timely and 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 exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 6.01. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 6.09. The petitioning employee organizations shall have fifteen (15) calendar days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 6.11.

Section 6.04 – Granting Recognition Without an Election

If the proof of support shows a timely request and that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent

them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

Section 6.05 – Election Procedure

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's 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 shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the payroll 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 Exclusively 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 (3) 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 (2) choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to run-off election.

There shall be no more than one (1) valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

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 California State Mediation and Conciliation Service.

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

Section 6.06 - Duration of Recognition

When an employee organization has been recognized, such recognition shall remain in effect until such time as the recognized employee organization is decertified or the appropriate unit represented by such recognized employee organization is modified, as provided in Section 6.08.

Section 6.07 – Restriction on Representation

No employee shall be represented by more than one (1) recognized employee organization.

Section 6.08 – Procedure for Decertification of Exclusively Recognized Employee Organization

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Representative only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two (2) 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 Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.
- C. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- D. Proof that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent that includes the allegation and information required under paragraph C of this Section and otherwise conforms to the requirements of Section 6.01.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning

employees or employee organization may appeal such determination in accordance with Section 6.11 of this Article. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) calendar days after such notice to determine the wishes of unit employees as to the question of decertification and if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 6.05 of this Article.

If, pursuant to Section 6.08, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section 6.09 – 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:

- A. The efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and
- B. 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 interests. 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 or 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. Effect of differing legally mandated impasse resolution procedures.
- E. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

- F. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two (2) or more units.
- G. Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Resolution.
- H. The effect of the unit on the efficient operation of the City and sound employer-employee relations.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Article 3 of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore, managerial, supervisory and confidential employees may only be included in a units that do not include non-managerial, non-supervisory or non-confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

Peace Officers may be required to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, directly or indirectly, is subordinate to any other employee organization which includes non-peace officers.

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

Section 6.10 – Procedure for Modification of Established Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 6.08. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 6.01, 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 6.09 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions.

A petition for modification of an established unit may be filed by an employee organization with the Employee Relations Representative during the same period for filing a petition for decertification and petition for modification shall contain the following information:

- A. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- B. The name of the recognized employee organization that currently represents the employees in the established unit.

- C. An allegation that the established unit is no longer appropriate and all relevant facts in support of such allegations.
- D. Written proof that at least thirty (30) percent of the employees within the proposed unit have designated the petitioning employee organization to represent them in their employment relations with the City.

The Employee Relations Representative shall determine the appropriate unit which may be the existing, the proposed-modified unit, or some other appropriate unit.

After the Employee Relations Representative determines the appropriate unit arising out of the operation of this section, he/she shall then follow the procedures set forth in Section 6.09 for determining recognition rights in such unit.

The Employee Relations Officer may by his/her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 6.09 and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided for in Section 6.12. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 6.01 hereof.

Section 6.11 – Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section 6.01), Challenging Petition (Section 6.03), Decertification Petition (Section 6.08), Unit Modification Petition (Section 6.10) or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Section 6.08) has not been filed in compliance with the applicable provisions of Article 6, may, within ten (10) calendar days of notice of the Employee Relations Officer's final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the City Council for final decision within fifteen (15) calendar days of notice of the Employee Relations Officer's determination or the termination of mediation proceedings, whichever is later.

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

ARTICLE 7 – ADMINISTRATION

Section 7.01 – Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under Items A-L of Section 6.01 of its Recognized Petition shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Section 7.02 – Employee Organization Activities, Use of City Resources

Access to work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in the Memorandum of Understanding and/or administrative procedures, 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 employee 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 7.03 – Administrative Rules and Procedures

The City Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

ARTICLE 8 - MEMORANDUM OF UNDERSTANDING

Section 8.01 – Terms and Conditions

All matters of employer-employee relations within the scope of representation for all employees in any unit represented by a recognized employee organization, or any individual employee representing himself/herself, shall remain the same from year to year unless on or before September 1 of each calendar year, proposals in writing identifying the areas within the scope of representation to be covered in negotiations are filed with the Municipal Employee Relations Representative by such recognized employee organization, or such individual employee.

Section 8.02 – Approval Of City Council

If agreement is reached by and between the Employee Relations Representative and the recognized employee organization, on matters within the scope of representation, they shall jointly prepare a written memorandum of agreement, which shall then be submitted to the City Council. Said agreement shall not be binding, nor of any force or effect, unless and until approved by the City Council.

ARTICLE 9 – IMPASSE PROCEDURES

Section 9.01 – Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in Article 3 of this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- A. To review the positions of the parties in a final effort to reach agreement on Memorandum of Understanding; and
- B. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 9.02 – Impasse Procedures

If, after a reasonable period of time, the Employee Relations Representative and the representatives of the Exclusively Recognized Employee Organization have exhausted all possible means of reaching agreement, either party may, by written communication to the other, request voluntary mediation. Within ten (10) calendar days after receipt of the written request, the parties shall request the California State Conciliation Service to appoint a mediator. If the mediator is unable to resolve the impasse, all unresolved issues shall be submitted to the City Council which retains the right and responsibility of final decisions regarding wages, fringe benefits, hours, and all other terms and conditions of employment.

- A. If the parties agree to submit the dispute to voluntary mediation and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- B. If the parties fail to agree to submit the dispute to voluntary mediation or fail to agree on the selection of a mediator or fail to resolve the dispute through mediation within fifteen (15) calendar days after the mediatory commenced meeting with the parties, the parties agree to submit the impasse to fact-finding.

Section 9.03 – Advisory Fact-Finding

If the parties agree to submit the dispute to voluntary mediation, and if the parties fail to resolve the dispute within thirty (30) calendar days after the mediator's appointment, either party may request, in writing, no later than thirty-seven (37) calendar days after the mediator's appointment, that the parties' difference be submitted to a fact-finding panel.

Section 9.04 – Fact-Finding Panel

The fact-finding panel shall be selected, comprised, be paid for and follow the procedures and timelines described in the Meyers-Milias-Brown Act (Government Code

Section 3505.4, 3505.5 and 3505.7. The fact-finding panel shall consist of:

- A. One (1) member selected by the Exclusively Recognized Employee Organization.
- B. One (1) member selected by the City.
- C. Chairperson selected by the Public Employment Relations Board or by agreement of the parties.

The Public Employment Relations Board shall, within five (5) calendar days after the selection of panel members by the parties, select a chairperson of the fact-finding panel. Within five (5) calendar days after the board 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 Public Employment Relations Board.

The panel shall, within ten (10) days after its appointment, meet with the parties or their representatives, either jointly or separately and may make inquiries and investigations, hold hearing 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.

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

- A. State and federal laws that are applicable to the City.
- B. Local rules, regulations or ordinances.
- C. Stipulations of the parties.
- D. The interests and welfare of the public and the financial ability of the public agency.
- E. Comparison of the wages, hours and conditions of employment of the employees involved in the fact-finding proceedings with the wages, hours and conditions of employment of other employees performing similar services in comparable public agencies.
- F. The consumer price index for goods and services, commonly known as the cost of living.
- G. 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.

- H. Any other facts not confined to those specific paragraphs (A-G) inclusive which are normally or traditionally taken into consideration in making the findings and recommendations.

Section 9.05 – Findings and Recommendations

If the dispute is not settled within thirty (30) calendar days after the appointment of the fact-finding panel or upon agreement by both parties within a longer period, the panel shall make findings of fact and recommend terms of settlement, 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 ten (10) calendar days after their receipt.

Section 9.06 - Costs Associated with Fact-Finding

The costs for the services of the panel chairperson selected by the Public Employment Relations Board, including per diem fees, if any, and actual and necessary travel and subsistence expenses, shall be equally divided between the parties. The per diem fees shall not exceed the per diem fees stated on the chairperson's resume on file with the Public Employment Relations Board. The chairperson's, selected by the Public Employment Relations Board, bill showing the amount payable by the parties shall accompany his/her final report to the parties and the board. The chairperson selected by the Public Employment Relations Board 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 Public Employment Relations Board. The parties shall make payment directly to the chairperson.

Any other mutually incurred costs shall be borne equally by the City and the Exclusively Recognized Employee Organization. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

Section 9.07 – Implementation

After mediation and fact-finding procedures have been exhausted but no earlier than ten (10) days after the fact-finders' written findings of facts and recommended terms of settlement have been submitted to the parties pursuant to Government Code Section 3505.5, the City 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 City's last, best and final offer shall not deprive the Exclusively Recognized Employee Organization of the right each year to meet and confer on 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 9.08 – Mutual Agreement Required to Waive Timelines

The City and the Exclusively Recognized Employee Organization may mutually agree in writing to waive the timelines set forth in Article 9 or in State law.

ARTICLE 10 - NOTICE

Except in cases of emergency, the City shall give reasonable, written notice to each recognized employee organization of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City, and shall provide such recognized employee organization the opportunity to meet with the City.

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

ARTICLE 11- PEACEFUL PERFORMANCE

Any Exclusively Recognized Employee Organization which, directly or indirectly, by any means whatsoever, engages in, induces, condones or encourages any employee to engage in a strike, sick in, walkout, stoppage, or retarding of work, or any other interference with the conduct of the City's operations, shall lose all rights hereunder, including but not limited to, suspension or revocation of recognition, cancellation of payroll deductions, prohibition of access to work or duty stations and bulletin boards.

Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of the conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be replaced to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under City law or contract.

ARTICLE 12 - CONSTRUCTION

The City Council may adopt such rules and regulations necessary or convenient to implement the provisions of this resolution and of Chapter 10, Division 4, Title 1 of the Government Code of the State of California. Nothing in this resolution shall be construed to deny any person or employee any rights granted by Federal or State laws. 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.

If 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 this resolution and the application of such provision, or portion thereof, to other persons or circumstances shall be deemed severable, shall not be affected, and shall remain in full force and effect.

The provisions of this resolution shall supersede and take precedence over the provisions of any prior resolutions minute orders or statements of policy by the City Council of the City of Fountain Valley dealing with the same subjects and matters as are covered herein.

Whenever written notice is required by this resolution, such notice shall deem to have been received on the day immediately following the day on which it was mailed (excluding Saturdays, Sundays, days and holidays on which the offices of the City are closed) provided the same was sent by first class or certified mail, postage prepaid to the City at 10200 Slater Avenue, Fountain Valley, CA 92708, or to any employee organization at its last address furnished to the City.

ARTICLE 13 – SEVERABILITY

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

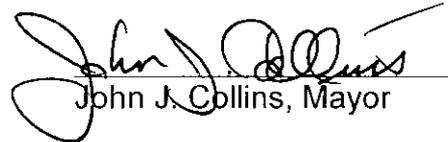
ARTICLE 14 – FULL FORCE AND EFFECT

The City Clerk of the City of Fountain Valley is hereby directed to certify to the passage of this resolution and thereupon and thereafter the same shall be in full force and effect.

PASSED AND ADOPTED at a regular meeting of the City Council this 21st day of August, 2012

ATTEST:


City Clerk (Deputy)


John J. Collins, Mayor

APPROVED AS TO FORM:

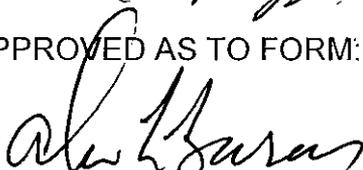

Alan Burns, City Attorney

EXHIBIT "A"

DESIGNATION OF REPRESENTATION UNITS
AND UNREPRESENTED CLASSIFICATIONS

The City Council determines that the following are the appropriate representation units:

Professional/Technical Unit (Designated as Management Employees)

City Engineer/Traffic Engineer	Management Analyst
Community Services Manager	Management Specialist
Community Services Supervisor	Planner
Deputy City Engineer	Principal Civil Engineer
Deputy Fire Marshal	Public Services Supervisor
Engineering Associate	Purchasing Manager
Environmental Services Administrator	Senior Civil Engineer
Field Services Manager	Sewer/Storm Drain Supervisor
General Services Manager	Support Services Supervisor
Housing Coordinator	Transportation Manager/Traffic Engineer
Information Systems Manager	Utilities Manager
Internal Services Supervisor	Water Supervisor

Fountain Valley General Employees' Association

Accountant	Fire Prevention Analyst
Accounting Technician I	Fire Prevention Specialist
Accounting Technician II	Housing Technician
Administrative Specialist	Identification Technician
Assistant Engineer	Information Systems Technician
Assistant Planner	Lead Dispatcher
Assistant Community Services Supervisor	Lead Records Clerk
Building Inspector	Management Aide
Building Technician	Office Specialist I
Code Enforcement Officer	Office Specialist II
Combination Building Inspector	Offset Press Operator/Stores Clerk
Community Services Officer	Personnel Assistant
Crime Scene Investigator Supervisor	Plan Check Engineer
Customer Service Representative – Business License	Property Clerk
Customer Service Representative – Utility Billing	Public Works Inspector
Deputy City Clerk	Records Clerk I
Dispatcher	Records Clerk II
Division Secretary	Recreation Coordinator

Emergency Preparedness Coordinator
Engineering Technician I
Engineering Technician II
Engineering Technician III
Executive Assistant to the City Manager
File Clerk

Secretary
Secretary to the City Council
Senior Building Inspector
Senior Permit Technician
Senior Secretary
Supervising Records Clerk

Fountain Valley Municipal Employees' Association

Equipment Operator I
Equipment Operator II
Equipment Operator II – Water
Foreman
Foreman – Fleet
Foreman – Utilities
Maintenance Worker II
Maintenance Worker II-Chemical
Applicator

Maintenance Worker II – Water Certified
Mechanic
Meter Reader
Sprinkler Technician II
Sweeper Operator
Tree Trimmer
Water Quality Technician
Water System Operator

Fountain Valley Police Officers' Association

Police Officer
Police Sergeant

Fountain Valley Peace Officers' Management Unit (Designated as Management Employees)

Police Lieutenant
Police Captain

Fountain Valley Firefighters' Association IAFF Local 4530

Firefighter
Fire Engineer
Fire Captain

Individually Represented Battalion Chiefs (Designated as Management Employees)

Battalion Chief

The City Council designates the following classifications as “unrepresented classifications”

Administrative Officers (Designated as Management Employees)

City Manager	Finance Director
Chief of Police	Fire Chief
Director of Public Works	Planning/Building Director

Professional/Technical (Designated as Management Employees)

Accounting Manager	Management Analyst (Personnel and City Manager’s Office)
Assistant to the City Manager	Personnel Manager
City Clerk	

Part-Time, At-Will

Accounting Technician	Planning Intern
Administrative Intern	Police Aide
Administrative Specialist	Police Reserve Officer
Customer Service Representative- Business License	Police Services Specialist
Dispatcher	Recreation Leader I
Information Systems Technician	Recreation Leader II
Lifeguard	Recreation Coordinator
Office Specialist	Recreation Specialist
Parking Control Officer	Temporary Laborer
Personnel Aide	

VOTE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF FOUNTAIN VALLEY)

I, Kathleen Heard, Deputy City Clerk of the City of Fountain Valley, do hereby certify that the foregoing Resolution was adopted at the Council meeting held on August 21, 2012 by the following vote, to wit:

AYES: CRANDALL, NAGEL, VO, MCCURDY, COLLINS
ABSENT: NONE
NOES: NONE



Kathleen Heard, Deputy City Clerk