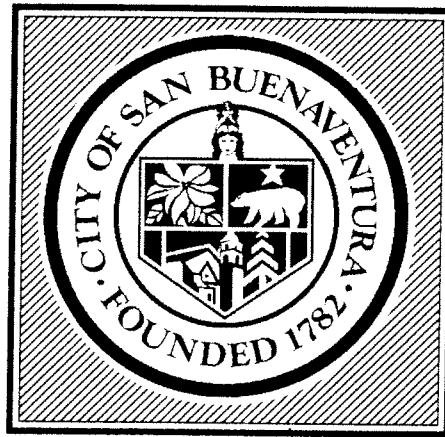


# ***Employer-Employee Relations Resolution***



*Effective September 17, 2001*

*Resolution No. 2001-85*

RESOLUTION NO. 2001-85

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA ADOPTING PROCEDURES FOR THE ADMINISTRATION OF RELATIONS BETWEEN THE CITY AND EMPLOYEE ORGANIZATIONS


WHEREAS Chapter 10, Division 4, Title I of the Government Code of the State of California, as amended, was adopted for the purpose of promoting improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS Government Code Section 3507 empowers a political subdivision of the State of California to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations; and

WHEREAS the City of San Buenaventura desires to adopt such reasonable rules and regulations as authorized by law.

NOW THEREFORE the City Council of the City of San Buenaventura does hereby adopt and enact the Employer-Employee Relations Resolution as follows:

I hereby certify that the annexed instrument(s) is a true  
1866 correct copy of the original on file in the offices of  
the City of San Buenaventura.  
EUREKA  
Dated this 19<sup>th</sup> day of September, 2001.  
BY: *Kimberly M. Rodrigues*  
Kimberly M. Rodrigues, Deputy City Clerk



# EMPLOYER-EMPLOYEE RELATIONS RESOLUTION

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## Article I - General Provisions

### Section 1. 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. This Resolution is intended to strengthen the merit system and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Exclusively 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 or the City Charter.

### Section 2. Definitions:

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

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

b. "City" means the City of San Buenaventura, a public agency, and where appropriate herein, Governing Body refers to the City Council, the governing body of said City.

c. "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.

d. "Consult or 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 views or advising of intended actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposal 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 IV hereof.

e. "Day(s)" means "Calendar day(s)" unless otherwise stated.

f. "Dues" means any single sum of money authorized by an employee to be deducted by the City for payment to an exclusively recognized employee organization, which deduction has been approved by the Employee Relations Officer.

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

h. "Employee Organization" means any organization which includes employees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City.

i. "Employee Relations Officer" means the Human Resources Director.

j. "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 II hereof.

k. "Impasse" means that the representatives of the City and an Exclusively 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.

l. "Management Employee" means:

(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

(2) any employee having authority to exercise independent judgment to hire, transfer, suspend, lay-off; recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

m. "Meet and Confer in Good Faith" means that a public agency, or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

n. "Proof of Employee Support" means (1) authorization card recently signed and personally dated by an employee, or (2) verified authorization petition or petitions recently signed and personally dated by an employee. If an authorization petition is submitted, the petition shall clearly indicate that employees desire to be represented by the employee organization for purposes of meeting and conferring on wages, hours and other terms and conditions of employment. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition under Article II.

o. "Resolution" means, unless the context indicates otherwise, the Employer-Employee Relations Resolution of the City of San Buenaventura.

p. "Severance Request" means a request to move a unit alleged to be appropriate that consists of a group of employees out of an established unit and making a separate new unit.

q. "Unit Modification Request" means a request to move a classification(s) from one established unit to another established unit, or adding a new classification(s) to an established unit.

### Section 3. Employee Rights:

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

## Article II - Representation Proceedings

### Section 4. Filing of Recognition Petition for Employee Organization:

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

- a. Name and address of the employee organization.
- b. Name and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of its organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees 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, or 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, bylaws and policies.
- g. A designation of those persons, not exceeding three 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 Labor Code are not applicable to City employees.
- i. A statement that the employee organization has no restriction on membership based on political affiliation, race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- j. The job classifications or position titles or employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- k. A statement that the employee organization has in its possession written proof of employee support as herein defined to establish that forty percent (40%) 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. This written proof shall be submitted for confirmation to either the Employee Relations Officer or to a mutually agreed upon disinterested third party. In the event that the parties are unable to agree on a third party, the confirmation shall be conducted by the California State Mediation and Conciliation Service. Any costs shall be borne in equal shares by the City and each employee organization.
- l. A request that the Employee Relations Officer formally recognize 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. All changes in such information shall also be filed in this manner.

**Section 5. 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 in accordance with Section 4 of this Article II; and
- b. the proposed representation is an appropriate unit in accordance with Section 9 of this Article II.

If the Employee Relations Officer determines that the foregoing two requirements have been met, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for ten (10) days thereafter. If either of the foregoing matters is 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 11 of this Article II.

**Section 6. Period for Filing Challenging Petition:**

Within ten (10) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization (hereinafter referred to as the "challenging organization") may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization in the proposed unit or 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 for Recognition, provided, however, such challenging organization must submit written proof of employee support that it represents at least forty percent (40%) of the employees in such unit in the same form and manner as set forth in Section 4 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a meeting 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 9 of this Article II. The petitioning and challenging employee organizations shall have fifteen (15) 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 appeal such determination pursuant to Section 11 of this Article II.

**Section 7. Election Procedure:**

If an employee organization is found to have satisfied the requirements of Section 5 of this Article II, then 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. 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 of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot. All employee organizations which have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually ("No Organization") in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular positions within the unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the election

commences, 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 formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if at least sixty percent (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 could not receive formal recognition or in the case of a decertification election, the incumbent Exclusively Recognized Employee Organization would not be decertified. If 90 employees vote, an employee organization must receive at least 46 votes for formal recognition or in the case of a decertification election, in order for the incumbent Exclusively Recognized Employee Organization to be decertified.

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.

The recognition rights of the Exclusively Recognized Employee Organization designated in accordance with this Section shall not be subject to challenge for a period of less than 24 months following the date of such recognition. Thereafter there shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

**Section 8. Procedure for Decertification of Exclusively Recognized Employee Organization:**

A Petition for Decertification alleging that the incumbent Exclusively Recognized Employee Organization is no longer the majority representative of the employees in an appropriate unit may be filed with the Employee Relations Officer only during the month of October of each year (the "open period") following the first full two years of recognition. A Petition for Decertification may be filed by a group of two or more employees or their representative or by an employee organization. The Petition, including all accompanying documents, shall be verified under oath, by the person signing it, that its contents are true. The Petition for Decertification shall contain the following information:

- a. The names, addresses and telephone numbers 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 formally recognized Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.
- c. An allegation that the Exclusively Recognized Employee Organization no longer represents a majority of the employees in an appropriate unit, and any other relevant and material facts.
- d. Written proof of employee support of at least forty percent (40%) of the employees do not desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such written proof shall be dated within ninety (90) days prior to the filing of a petition and 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. In the event that the parties are unable to agree on a third party, the confirmation shall be conducted by the California State Mediation and Conciliation Service. Any costs shall be borne in equal shares by the City and each employee organization.

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 forty percent (40%), that includes the allegation and information required above, and otherwise conforms to the requirements of Section 4 of this Article II.



The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of Article II. 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 employee(s), challenging organization or incumbent employee organization may appeal such determination in accordance with Section 11 of this Article II. 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) days after such notice is given 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 7 of this Article II.

The incumbent Exclusively Recognized Employee Organization shall be decertified if the majority of those casting valid ballots vote for decertification in accordance with Section 7 of this Article II. If pursuant to this Section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

**Section 9. Policy and Standards for Determination of Appropriate Units:**

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

1. Which unit will assure employees the fullest freedom in the exercise of rights set forth in this Resolution.
2. The history of employee relations: (i) in that unit; (ii) among other employees of the City, and (iii) in similar public employment.
3. The effect of the unit on the efficient operations of the City and sound employer-employee relations.
4. Similarity of the general kinds of work performed, types of qualifications required, and general working conditions.
5. The effect on the existing classification structure and the impact on the stability of the employer-employee relationship of dividing a single classification or related classifications among two or more units.
6. The number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and/or proliferation of units.
7. Consistency with organization patterns of the City.
8. The effect of differing legally mandated impasse resolution procedures.

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

b. Notwithstanding the foregoing provisions of this Section, managerial and confidential employee's responsibilities, as defined in Section 2 of Article I of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore managerial and confidential employees may only be included in a unit consisting solely of managerial or confidential employees respectively. Managerial and confidential employees may not represent any employee organization that represents other employees.

c. 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 9. A decision pursuant to this sub-paragraph c of the Employee Relations Officer shall be final.

**Section 10. Procedure for Modification of Established Appropriate Units or for Severance Requests:**

Requests by employees or employee organizations for modifications of established appropriate units or for severance of classification(s) from an existing unit(s) may be considered by the Employee Relations Officer only during the "open period" specified in Section 8 of this Article II. Such requests shall be submitted in writing and shall contain a complete statement of all relevant facts and citations in support of the proposed modified or severed unit in terms of the policies and standards set for in Section 9 of this Article II.

The Employee Relations Officer shall give written notice of the proposed modification(s) or proposed severance to any affected employee organization and shall hold a meeting concerning the proposed modification(s) or proposed severance, 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 9 of this Article II, and shall give written notice of such determination to the affected employee organizations. The petitioning employee(s), challenging organization or incumbent employee organization may appeal such determination in accordance with Section 11 of this Article II.

If a unit is severed, 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 4 of this Article II. The Employee Relations Officer shall process such petitions as other Recognitions Petitions under this Article II.

**Section 11. Appeals:**

An appeal as provided above in Sections 5, 6, 7, 8, and 10 shall be filed within fifteen (15) days of notice of the determination being appealed with the City Manager for final decision.

Appeals to the City Manager shall be filed in writing with the City Manager, and a copy thereof served on the Employee Relations Officer. The City Manager shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City Manager, may in his/her sole discretion, refer the dispute to a third party who shall render an advisory opinion to the City Manager. Any decision of the City Manager on the use of such third party, and/or any decision of the City Manager determining the substance of the dispute shall be final and binding.

## Article III -- Administration

### **Section 12. Dues Payroll Deduction:**

Only an Exclusively Recognized Employee Organization of an appropriate unit may be granted permission by the Employee Relations Officer to have the regular dues of its members deducted from their paychecks.

Dues deduction shall be for a specified amount and shall be made only upon the written authorization of the member. Dues deduction authorization or cancellation shall be made upon cards provided by the Employee Relations Officer.

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

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

All employee organizations utilizing payroll deduction for dues shall indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City on account of the deduction of employee organization dues. In addition, all such employee organizations shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

### **Section 13. Reasonable Time Off To Meet with the City on Matters Within the Scope of Representation:**

The Exclusively Recognized Employee Organization may select not more than three employee members of such organization to attend scheduled meetings with the 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 Employee Relations Officer may approve the attendance at such meetings of additional employee representatives without loss of compensation. The parties will attempt to schedule meetings at mutually convenient times. The employee organization shall submit the names of all such employee representatives to the Employee Relations Officer at least two working days in advance of such meetings. Provided, further:

- a. 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.
- b. that any such meeting is subject to scheduling in a manner consistent with operating needs and work schedules.

Nothing provided herein, however, shall limit or restrict the scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

**Section 14. Access To Work Locations:**

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

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, shall not be conducted during working hours, unless otherwise authorized by the City Manager in his/her sole discretion.

**Section 15. Use Of City Facilities:**

Notwithstanding City Resolution No. 2000- 10 employee organizations may, with the prior approval of the Employee Relations Officer, be granted the use of City facilities for meetings of City employees provided space is available, and provided further that meetings are not used for membership drives of City employees. Such meeting shall be scheduled during non-work hours only unless otherwise authorized by the Employee Relations Officer. The City reserves the right to assess reasonable charges for the use of such facilities. Furthermore, an employee organization may apply for a City permit to use any City facility like any member of the public.

**Section 16. Use Of City Bulletin Boards:**

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

- a. All materials must be dated and must identify the organization that published them.
- b. The City reserves the right to determine where bulletin boards shall be placed and what portion of them is to be allocated to employee organizations' materials.

**Section 17. Use of City Computer, Computing and Communication Systems:**

Use of City computer, computing systems, networks, e-mail, internet, as well as communication related tools such as phone, pages, fax and voice mail (collectively IT) by employee organizations and those representing them shall be authorized only to the extent provided for in their respective Memoranda of Understanding and/or Administrative Policies & Procedures. Use 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. Employee organizations and those representing them shall have no greater access to IT than employees of the City, which limits usage to incidental personal use with no right to privacy and the right of the City monitor usage.

**Section 18. Memorandum Of Understanding:**

When the meeting and conferring process is concluded between the City and an Exclusively Recognized Employee Organization representing employees in an appropriate unit, all agreed-upon matters shall be incorporated in a written Memorandum of Understanding. The Memorandum of Understanding shall not be binding until submitted to and approved by the City Council. The Memorandum of

Understanding shall be signed by the Employee Relations Officer and the Exclusively Recognized Employee Organization.

**Section 19.                    Designation Of Employer Relations Officer:**

The City Council hereby appoints the Human Resources Director as the 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 in an attempt to reach agreement on matters within the scope of representation including, but not limited to wages, hours, and other terms and conditions of employment.

The Employee Relations Officer is authorized to delegate these duties, responsibilities and authority.

**Article IV - Impasse Procedures**

**Section 20.                    Initiation of Impasse Procedure:**

If the meet and confer process has reached impasse as defined in Section 2 of Article I of this Resolution, either party may initiate the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting together with a written statement of all disputed issues and its position on these issues. An impasse meeting shall then be scheduled promptly between the parties at a time mutually convenient to all parties. The purpose of such meeting shall be:

- a. To permit a review of the position of all parties in a final effort to reach agreement on a Memorandum of Understanding.
- b. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

**Section 21.                    Impasse Procedures:**

- a. Both parties shall meet together with the City Manager. If agreement still cannot be reached, then the impasse shall be resolved as set forth below.
- b. If both parties agree to mediation, a mediator, acceptable to each party to the impasse, shall be selected. Selection of the mediator shall be made from a list furnished by either the California State Conciliation Service or the Federal Mediation and Conciliation Service. The cost of mediation shall be divided one-half to the City and one-half to the recognized employee organizations. The mediator shall make no public recommendations nor take any public position concerning the issues. If agreement can still not be reached the mediator shall submit the disputed issue or issues to the City Council who shall then make the final decision. Notwithstanding the foregoing, the parties may mutually agree in writing to any other dispute resolving procedures.
- c. If the parties do not agree on mediation or the selection of a mediator, or having so agreed, the impasse has not been resolved, the City Council may order other dispute resolving procedure(s) or take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. If the City Council orders a dispute resolution procedure, the City shall bear the costs. Any legislative action by the City Council on the impasse shall be final and binding.

Article V - Miscellaneous Provisions

Section 22.                    Construction:

This Resolution shall be administered and construed as follows:

a. Nothing in this Resolution shall be construed to deny any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by federal or state law or City Charter provisions.

b. This Resolution shall be interpreted so as to carry out its purpose as set forth in Article I.

c. 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 are specifically given notice that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under City law or contract.

Section 23.                    Repeal of Current Employer-Employee Relations Resolution:

Resolutions No. 7539 and 7539A are hereby repealed in their entirety. Those Exclusively Recognized Employee Organizations recognized as of the date of adoption of this Resolution shall retain their recognition as of the date of adoption of this Resolution. Future continued recognition beyond that will be subject to application of the provisions of this Resolution.

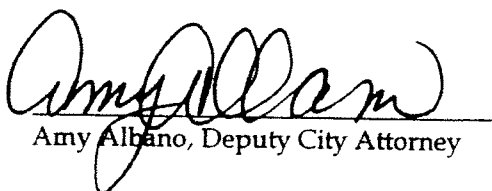
Section 24.                    Severability:

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

Passed and adopted this 17th day of September, 2001.

  
City Clerk

APPROVED AS TO FORM  
ROBERT G. BOEHM

  
Amy Albano, Deputy City Attorney

STATE OF CALIFORNIA                    )  
COUNTY OF VENTURA                 ) ss  
CITY OF SAN BUENAVENTURA         )

I, BARBARA J. KAM, City Clerk of the City of San Buenaventura, California, do hereby certify that the foregoing Resolution was duly passed and adopted by the City Council of the City of San Buenaventura at a regular meeting thereof held on the 17<sup>th</sup> day of September, 2001 by the following vote:

AYES:            Councilmembers Friedman, Brennan, Morehouse,  
                      Di Guilio, De Paola, and Smith.

NOES:            None.

ABSENT:         Councilmember Monahan.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the City of San Buenaventura this 18<sup>th</sup> day of September, 2001.

  
Barbara J. Kam, City Clerk