

RESOLUTION NO. 81-75 ^{MAY 8 1 09 PM '81}

CLERK OF THE COUNCIL
 OF THE CITY OF SANTA ANA
 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA
 SANTA ANA RELATING TO EMPLOYER-EMPLOYEE RELATIONS
 IN THE PUBLIC SERVICE OF THE CITY OF SANTA ANA

WHEREAS, the Council of the City of Santa Ana declares that is the public policy of the City to maintain and enhance its administration of employer-employee relations and to protect the public by assuring at all times the orderly and uninterrupted operations and services of City government; and

WHEREAS, the City of Santa Ana desires to establish uniform and orderly methods of communication between the City and its employees, including provisions for (a) recognizing the rights of employees to join organizations of their own choosing for the purpose of representation on matters affecting employee relations or to represent themselves individually in dealing with the City; and (b) establishing equitable and uniform rules and procedures to provide for the orderly and systematic presentation, consideration and resolution of employer-employee relations matters; and

WHEREAS, the City of Santa Ana has met and conferred in good faith with representatives of the Santa Ana City Employees' Association; Santa Ana Police Benevolent Association; Santa Ana Firemen's Benevolent Association; and the American Federation of State, County and Municipal Employees, AFL-CIO, which are the only employee organizations known to the City to have among their members employees of the City, concerning the rules and regulations for the administration of employer-employee relations set forth herein; and

NOW, THEREFORE, the City Council of the City of Santa Ana does hereby resolve as follows:

Section 1: Title of Resolution

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

Section 2: Definitions

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

- A. APPROPRIATE UNIT - means a unit of employee classes or positions established pursuant to Section 11 of this Resolution.
- B. CITY - means the City of Santa Ana, a municipal corporation, and where appropriate herein, "City" refers to the City Council or any duly-authorized management employee as herein defined.
- C. DAY - means calendar day unless expressly stated otherwise.
- D. EMPLOYEE - means any person regularly employed by the City on a full-time basis except those persons elected by popular vote.
- E. EMPLOYEE, CONFIDENTIAL - means an employee who is assigned to perform work directly involved in the development, preparation or presentation of management positions with respect to employer-employee relations.
- F. EMPLOYEE, MANAGEMENT - means any employee having responsibility for formulating, administering or managing the implementation of City policies or programs, including but not limited to, department and assistant department heads, division heads, and professional administrative staff employees employed to render advice and assistance pertaining to the conduct of legal, fiscal, budgetary, personnel management and employer-employee relations affairs of the City.
- G. EMPLOYEE, PROFESSIONAL - means a classification of employees engaged in work (a) predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (b) involving the constant exercise of discretion and judgement in its performance; and (c) requiring knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education, or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

- H. EMPLOYEE, SUPERVISORY - means any employee, regardless of job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to evaluate or review their grievances, or effectively to recommend such actions, if in connection with any of the foregoing, the exercise of such responsibility is not of a merely routine or clerical nature, but requires the use of independent judgement.
- I. EMPLOYEE ORGANIZATION - means any lawful 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; provided, however, that said organization has no restrictions on membership based on race, color, creed, sex or national origin.
- J. EMPLOYEE RELATIONS OFFICER - means the City's principal representative in all matters of employer-employee relations designated pursuant to Section 3 hereof, or his duly-authorized representative.
- K. EMPLOYER-EMPLOYEE RELATIONS - means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and individual employees or employee organizations.
- L. GRIEVANCE - means a dispute, claimed by an employee, group of employees or a recognized employee organization concerning the meaning, application, or enforcement of any of the provisions of the City's Employer-Employee Relations Policy or of a memorandum of understanding; and for which specific hearing or appeal procedure is not otherwise provided, or is not specifically withheld, by civil service rule, ordinance, resolution, charter provision, or memorandum of understanding.
- M. 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 concerning matters on which they are required to meet and confer, remain so substantial that further meeting and conferring would not be likely to result in an agreement.
- N. MEDIATION OR CONCILIATION - means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.
- O. MEET AND CONFER IN GOOD FAITH (sometimes referred to herein as "meet and confer" or "meeting and conferring") - means the performance by duly-authorized City representatives and duly-authorized representatives of a recognized employee organization of their mutual obligation personally to meet and confer in good faith promptly upon the request of 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 prior to the adoption by the City of its final budget for the ensuing year. This does not require either party to agree to a proposal or to make a concession.
- P. MEMORANDUM OF UNDERSTANDING - means a written memorandum of the agreement between the City and a recognized employee organization reached through meeting and conferring.
- Q. PEACE OFFICER - means an employee of the Santa Ana Police Department whose principal duties consist of active law enforcement and who is designated as a "peace officer" as that term is defined in Section 830, California Penal Code, except that, for purposes of this Resolution only, "peace officer" does not mean a park patrolman, security guard or a member of the fire department, whether the latter be serving as a member of an arson-investigating unit, as a deputy or assistant state fire marshall, or in any capacity wherein the member would have the status of peace officer for purposes other than that of this Resolution.

- R. **RECOGNIZED EMPLOYEE ORGANIZATION** - means an employee organization which has been granted formal recognition by the Employee Relations Officer as the employee organization which has the right to meet and confer in good faith as the majority representative of all members of an appropriate representation unit pursuant to Section 11 hereof, except those employees in such unit who have exercised their right not to join an employee organization and who choose to represent themselves individually with the City, or has been designated through a secret ballot election as the exclusive representative of the employees in an appropriate representation unit pursuant to Section 11 of this Resolution.
- S. **SCOPE OF REPRESENTATION** - means those matters relating to employment conditions and employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

Section 3: Designation of the City's Employee Relations Officer

The City Council hereby designates the City Manager as the Employee Relations Officer who shall be the City's principal representative on all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation, and to administer all provisions of this Resolution and the employee relations rules and procedures adopted pursuant thereto. The Employee Relations Officer is authorized to delegate his duties and responsibilities.

Section 4: Meet and Confer in Good Faith - Scope

- A. City representatives and representatives of formally recognized employee organizations having exclusive representation rights, have the mutual obligation personally to meet and confer in good faith in order to exchange freely information, opinions and proposals and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the City of its final budget for the ensuing year.
- B. The City shall not be required to meet and confer in good faith on a subject pre-empted by Federal or State law or by the City Charter.

Section 5: Notice

The City will give reasonable written notice to each recognized employee organization affected by any ordinance, rule, resolution, or regulation relating to matters within the scope of representation proposed to be adopted by the City, and each such organization shall be given the opportunity to meet and confer with the Employee Relations Officer prior to such adoption.

In cases of emergency when the City determines that an ordinance, rule, resolution, or regulation relating to matters within the scope of representation must be adopted immediately without prior notice or meeting with recognized employee organization, the Employee Relations Officer shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

Section 6: Petition for Recognition

- A. An employee organization that seeks to be formally acknowledged as the Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:
- (1) Name and address of the employee organization.
 - (2) Names and titles of its officers.
 - (3) Names and titles of employee organization representatives who are authorized to speak on behalf of the organization.
 - (4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.

- (5) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state or international organization.
- (6) Certified copies of the employee organization's constitution and by-laws, including all amendments thereof.
- (7) A designation of those persons, not exceeding three in number, and their addresses, to whom notice sent by first class or certified United States mail will be deemed sufficient notice on the employee organization.
- (8) A statement that the employee organization is cognizant of the provisions of Section 3509 of the Meyer-Milius-Brown Act.
- (9) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, or national origin.
- (10) A description of the composition of the unit or units claimed to be appropriate, including the job classifications of employees and the number of member employees therein, as well as a statement of reasons why the unit or units is or are considered to be appropriate.
- (11) A statement that the employee organization has in its possession written proof, dated by the signer within six 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 them in their employment relations with the City. Such written proof shall be made in such language and form as the Employee Relations Officer shall prescribe and shall be submitted for confirmation to the Employee Relations Officer or to a mutually-agreed upon disinterested third party. Notwithstanding the above, the Employee Relations Officer, in his sole discretion, may accept employee dues deduction authorization, using the payroll register for the period immediately preceding the date of filing of a Petition of Recognition, as proof of employee support for the petitioning organization, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization, unless it can otherwise be shown that the dues deduction for the petitioning organization is the only one which provides full membership rights and privileges, including the right to vote.
- (12) A request that the Employee Relations Officer recognize the petitioning employee organization as the Recognized Employee Organization representing the employees in the unit(s) claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.
- (13) The Petition, including all accompanying documents, 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. The Employee Relations Officer may require additional information as required by this Resolution to be included in the Petition.

B. The Employee Relations Officer shall give prompt written notice of the filing of a Petition to any recognized employee organization affected thereby.

Section 7: City Response to Recognition Petition

Upon receipt of the Petition, the Employee Relations Officer shall within ten (10) days 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 11 of this Resolution.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he shall within ten (10) days after making said determination, 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 thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall meet and discuss the matter with such petitioning employee organization, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Section 13 of this Resolution.

Section 8: Open Period for Filing Challenging Petition(s)

Within thirty (30) days of the date written notice was given to affected employees that a valid Recognition Petition(s) for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the recognized employee organization of the employees in the same 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(s) 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 of this Resolution. If such challenging petition(s) 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 11 of this Resolution. The petitioning 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 to appeal such determination pursuant to Section 13 of this Resolution.

Section 9: 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 its rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Resolution shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons employed full time in regular, permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. If 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 (that is, either between two employee organizations, or one employee organization and no representation); the rules governing an initial election being applicable to a run-off election, except that the run-off election shall be held within fifteen (15) days following the certification of the initial election results.

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.

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

In cases where a Memorandum of Understanding between the City and an employee organization is in effect on the effective date of this Resolution, it shall be presumed for the duration of the Memorandum of Understanding that the unit set forth in the Memorandum of Understanding is appropriate and that the employee organization is the majority representative of the employees covered therein. Unless a petition is filed pursuant to Section 12 below, it shall be presumed that when said Memorandum of Understanding terminates the employee organization shall continue to be a majority representative of employees covered by said Memorandum of Understanding for the purposes of meeting and conferring regarding matters within the scope of representation; provided, however, the employee organization files with the City the information required by Section 6(A) (1) through (13) of this Resolution. Nothing contained herein shall preclude an employee organization from filing a petition for recognition pursuant to Section 6 or Section 10 of this Resolution at the expiration of Memoranda of Understanding which expire on June 30, 1981.

Section 10: Procedure for Decertification of Recognized Employee Organization

A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of January of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred eighty (180) 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 employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly-authorized signatory under penalty of perjury to be true, correct and complete:

- A. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- B. The name of the established appropriate unit and of the incumbent Recognized Employee Organization sought to be decertified as the representative of that unit.
- C. An allegation that the incumbent Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- D. Proof of employee support that a majority of the employees in the established appropriate unit no longer desires to be represented by the incumbent Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually-agreed upon disinterested third party.

The Employee Relations Officer can only accept those petitions which (1) request decertification of the current formally recognized employee organization and (2) do not request to carve out another unit from the already established appropriate unit.

An employee organization may file a Petition under this Section in the form of a Recognition Petition that conforms to the requirements of Section 6 of this Resolution in satisfaction of the Decertification Petition requirements hereunder.

The Employee Relations Officer shall initially determine whether the Decertification Petition or Recognition Petition, if any, have been filed in compliance with the applicable provisions of this Resolution. If his determination is in the negative, he shall offer to consult thereof with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such Petition(s) to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 13 of this Resolution.

If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of such Decertification of Recognition Petition to the incumbent 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 to determine the wishes of unit employees as to the question of decertification, and, if an accompanying Recognition Petition was duly filed, and, in the event decertification of the incumbent Recognized Employee Organization is voted, the question of representation. Such election shall be conducted in conformance with Section 9 of this Resolution.

The cost of any election proceeding under the provisions of this Section shall be borne entirely by the employee organization(s) challenging the incumbent recognized employee organization.

Any employee organization which displaces another employee organization as a formally-recognized employee organization following an election conducted pursuant to this Section shall assume any existing Memorandum of Understanding then in effect as a condition of recognition and said Memorandum of Understanding shall remain in full force and effect for the balance of the term thereof.

Section 11: Policy and Standards for Determination of Appropriate Units

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

- A. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- B. History of representation in the City and 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. The effect of the proposed unit on efficient operations of the City and the compatibility of the unit with the responsibility of the City and its employees to serve the public.
- D. The effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- E. Effect on the classification structure and impact on the stability of the employee relationship of dividing a single or related classification among two or more units.

Notwithstanding the foregoing, management employees shall only be included in a unit consisting solely of management employees and confidential employees shall be included in a unit consisting solely of confidential employees.

When the City establishes new classifications or positions, or modifies the job content of an existing classification or position, the Employee Relations Officer shall, after notice to and consultation with all affected employee organizations, determine which, if any, representation unit shall include such new or modified classification(s) or position(s).

Section 12: 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 10 of this Resolution. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set

forth in Section 6 of this Resolution, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 11 hereof. The Employee Relations Officer shall process such petitions as other Recognition petitions under this Resolution.

The Employee Relations Officer may on his motion propose, during the period specified in Section 10 of this Resolution, that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 11 of this Resolution, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 13 of this Resolution. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Recognized Employee Organization for such new appropriate unit or units pursuant to Section 6 hereof.

Section 13. Appeals

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

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section 6); Challenging Petition (Section 8) or Decertification Petition (Section 10) -- or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Section 10) -- has not been filed in compliance with the applicable provisions of this Resolution, may, within fifteen (15) days of notice of such determination, appeal the determination to the City Council for final decision.

Appeal 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) days of the filing of the appeal, and shall render a final and binding decision regarding the resolution of the disputed issue(s) raised by the appeal after each party involved has been given an opportunity, during a public meeting, to present written and oral arguments in support of their respective positions and, if the City Council so desires, after any further investigation or review of the matter as it may deem appropriate. The City Council, may, in its discretion, refer the dispute to a third party hearing process for the purpose of seeking an advisory determination prior to making its final decision regarding the resolution of the dispute.

Section 14: Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the City by a Recognized Employee Organization under Items (1) through (13) of its Recognition Petition under Section 6 of this Resolution shall be submitted in writing to the Employee Relations Officer within fifteen (15) days of such change.

Section 15: Payroll Deductions on Behalf of Employee Organizations

Upon formal acknowledgement by the City of a Recognized Employee Organization under this Resolution, only such Recognized Employee Organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by Recognized Employee Organization on forms provided therefor by the City. The providing of such service to the Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

Section 16: Employee Organization Activities - Use of City Resources

Access to City 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 Memoranda of Understanding and/or administrative procedures; shall be limited to activities pertaining 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 17: Administrative Rules and Procedures

The Employee Relations Officer 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.

Section 18: Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in 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 disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- A. To identify and specify in writing the issue or issues that remain in dispute.
- B. To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- C. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 19: Impasse Procedures

Impasse procedures are as follows:

- A. If the parties so agree, the issue or issues at impasse shall be submitted directly to the City Council for determination.
- B. If they do not agree within seven (7) days following the conclusion of the impasse meeting set forth in Section 18 above, either party may submit the impasse to mediation.
 - (1) All mediation proceedings shall be private and the mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
 - (2) If the parties are unable to agree on a mediator after a reasonable period of time, they shall select the mediator from a list of three names to be provided by the State Conciliation Service, or if that agency for any reason shall fail to provide such list, by the American Arbitration Association.
 - (3) Upon receipt of such list, the parties shall alternately strike names from the list until a single name remains who shall become the mediator. The priority of striking names shall alternate from one party to the other each time impasse procedures are invoked by the same parties. The employee organization or the City shall commence this process in an order determined by lot by striking the first name from such list of names in any initial mediation.
 - (4) The cost of the mediator, if any, shall be shared equally by both parties.
 - (5) If the parties have failed to resolve all their disputes through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the parties may agree to submit the issues in dispute directly to the City Council. In that event, the City Council shall finally determine the issues after conducting a public hearing thereon and after such further investigation of the relevant facts as it may deem appropriate.

C. If the parties have exhausted the mediation process, the matter shall be submitted to the City Council for resolution.

Section 20: Construction

This Resolution shall be administered and construed as follows:

- A. Nothing in this Resolution shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by Federal or State law or City Charter provisions.
- B. 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, other total or partial stoppage or slowdown of work or any other interference with the conduct of the City's operations.
- C. Nothing contained in this Resolution shall abrogate any written memoranda of understanding between any employee organization and the City in effect on the effective date of this Resolution. All such agreements shall continue in effect for the duration of the term specified therein unless modified or rescinded by mutual agreement of the parties thereto.
- D. 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 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 20 Civic Center Plaza, Santa Ana, California 92701, or to any employee organization at its last address furnished to the City.

Section 21: Severability

If any section, sub-section, sentence, clause or phrase of this Resolution, or the application of such portion to any person or circumstance, shall be held invalid by a decision of any court of competent jurisdiction, the remainder of this Resolution, or the application of such portion to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. The City Council hereby declares that it would have passed this Resolution and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared invalid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Ana:

That this Resolution shall be operative from and after May 18, 1981.

ADOPTED this 18th day of May, 1981, by the following vote:

AYES: Acosta, Bricken, Griset, Luxembourger, Markel, McGuigan, Serrato

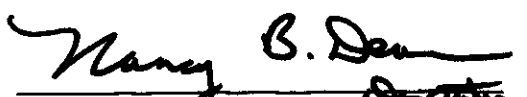
NOES: None

ABSENT: None



Mayor

ATTEST:



CLERK OF THE COUNCIL *Secretary*

APPROVED AS TO FORM:



CITY ATTORNEY