COUNCILMEMBER DONNA FRYE
City of San Diego
Sixth District

MEMORANDUM

DATE: April 11, 2007

TO: Mayor Jerry Sanders

FROM: Councilmember Donna Frye Donna Frye

SUBJECT: Proposed Salary Increases; Impact on Pension Liability

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This is a follow-up to our discussion regarding the proposed increase in salary for the POA and the associated pension costs. Mr. Joseph Esuchanko, the city's actuarial consultant, estimated that a 6% increase for POA would result in a cost to the pension system of $61 million, an increase in the Annual Required Contribution (ARC) of $4.8 million for the upcoming fiscal year, and a 0.6% decrease in the funded ration.

Given that your budget will be released this coming Friday, I am requesting that you provide a valuation of the salary increase for the POA and other bargaining groups who, as part of their current contract, will receive a pay increase in the upcoming fiscal year.

I am also requesting that you identify to the City Council the funding source for both the proposed increase in benefits and the resulting increase in the present value of benefits.

As a member of the City Council, I will soon be required to approve/disapprove your proposal to the POA and other bargaining units. The requested information is necessary to ensure that any action on which this Council is asked to consider and/or vote is in full compliance with local, state and federal laws and the source of funding identified.

Finally, I am attaching for your information, an action taken by the City Council on November 14, 2005, recommending a change to Council Policy 300-06, requiring that a valuation of any benefit be provided to the City Council before being asked to vote on any increase in benefits. The matter was referred to meet and confer so that the change could be reviewed by the recognized labor organizations (meeting minutes attached). To the best of my knowledge, this issue has yet to be resolved during any meet and confer session.

Thank you for your attention this matter.

CC: Honorable City Councilmembers
Mike Aguirre, City Attorney
Andrea Tevlin, IBA

FILE LOCATION: GEN'L-State of Emergency Regarding thje Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:33 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-125: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-325) ADOPTED AS RESOLUTION R-301041

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:33 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-150: Directing the City Manager to Meet and Confer with Recognized Labor Organizations on Proposed Revision to Council Policy 300-06 that Included a Mandatory Discussion of Unfunded Accrued Actuarial Liability.

(See letter from Councilmember Frye dated 9/15/2005; letter from Ann Smith dated 9/9/2005; and memorandum from City Attorney dated 8/31/2005.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-321) ADOPTED AS AMENDED AS RESOLUTION R-301042

Directing the City Manager to meet and confer with recognized labor organizations on the proposed revision to Council Policy 300-06 entitled "Employee-Employer Relations," which adds the following provision:

XI. MANDATORY DISCUSSION OF PENSION SYSTEM UNFUNDED LIABILITY:

A. No City officer, employee, or negotiator may engage in a meet and confer process with an Exclusively Recognized Employee Organization regarding proposed benefit enhancements until the City Council has been apprised of and had an opportunity to discuss, the cost and impact that the proposed benefit enhancements would have on any unfunded actuarial liability of the San Diego City Employees Retirement System.

B. The prohibition set forth in Section A is renewed each time that a different benefit enhancement is proposed for purposes of the meet and confer process.

GOVERNMENT EFFICIENCY AND OPENNESS COMMITTEE'S RECOMMENDATION:

On 9/26/2005, GE&O voted 2 to 0 to recommend to the full City Council that the language contained in the City Attorney's memorandum be added to Council Policy 300-06 with the understanding that the existing policy requires that the City conduct a meet and confer session with the recognized labor organizations regarding the change. (Councilmembers Maienschein and Frye voted yea. Councilmember Young not present.)

SUPPORTING INFORMATION:

The Government Efficiency and Openness (GE&O) Committee directed the City Attorney to bring to the Committee a draft Council Policy and ordinance requiring a mandatory discussion related to the San Diego pension system that would include an analysis of the cost and impact of any benefit enhancements on the unfunded liability prior to any meet and confer sessions. On September 26, 2005, the GE&O Committee

voted unanimously to recommend the proposed draft revisions of Council Policy 300-06 to the full City Council with the understanding that the existing policy requires that the City meet and confer with the recognized labor organizations regarding the change. The proposed change would add the following section to the existing Council Policy:

XI. MANDATORY DISCUSSION OF PENSION SYSTEM UNFUNDED LIABILITY:

A. No City officer, employee, or negotiator may engage in a meet and confer process with an Exclusively Recognized Employee Organization regarding proposed benefit enhancements until the City Council has been apprised of and had an opportunity to discuss, the cost and impact that the proposed benefit enhancements would have on any unfunded actuarial liability of the San Diego City Employees Retirement System.

B. The prohibition set forth in Section A is renewed each time that a different benefit enhancement is proposed for purposes of the meet and confer process.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:40 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION AS AMENDED TO REFLECT THE DIRECTION THAT THE CITY ATTORNEY DRAFT LANGUAGE THAT WOULD BE INCLUDED AS PART OF AN ORDINANCE AS WELL AS PART OF CITY COUNCIL POLICY 300-06. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-151: Awarding Contracts to American Eurocopter, FLIR Systems Inc. and JetSource Avionics for the Acquisition and Equipping of Law Enforcement Helicopters.

(See City Manager Report CMR-05-180; and CMR-05-220, not available at Committee.)

TODAY'S ACTIONS ARE:

Introduce the following ordinance in Subitem A, and adopt the resolution in Subitem B:

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: August 31, 2005

TO: Committee on Government Efficiency and Openness

FROM: City Attorney

SUBJECT: Mandatory Discussion of UAAL Prior to Meet and Confer

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At a meeting held on June 13, 2005, the Committee on Government Efficiency and Openness [Committee] directed the City Attorney to bring to the Committee a draft Council Policy and ordinance requiring a mandatory discussion related to the San Diego pension system that would include an analysis of the cost and impact of any benefit enhancements on the unfunded liability prior to any meet and confer sessions.

After reviewing the City's Council Policies and the provisions of the San Diego Municipal Code, it is our recommendation that rather than create a new policy or code section, it would be more appropriate to add the requested language to existing Council Policy 300-06, Employee-Employer Relations. This Council Policy concerns many different aspects of the relationship between the City and its employee organizations, and appears to be a suitable location for the language the Committee seeks to implement. We recommend adding the mandatory discussion language to the end of the existing policy, to read as follows:

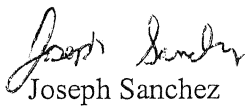
XI. MANDATORY DISCUSSION OF PENSION SYSTEM UNFUNDED LIABILITY:

A. No City officer, employee, or negotiator may engage in a meet and confer process with an Exclusively Recognized Employee Organization regarding proposed benefit enhancements until the City Council has been apprised of, and had an opportunity to discuss, the cost and impact that the proposed benefit enhancements would have on any unfunded accrued actuarial liability of the San Diego City Employees' Retirement System.

B. The prohibition set forth in section A is renewed each time that a different benefit enhancement is proposed for purposes of the meet and confer process.

A "strikeout" copy of Council Policy 300-06, with the proposed language included, is attached to this memorandum. This office is ready to assist in additional drafting as directed by this Committee.

MICHAEL J. AGUIRRE, City Attorney

By 
Joseph Sanchez
Deputy City Attorney

CMB:JS:jb:smf
Attachment
cc: Mike McGhee, Labor Relations Manager

CITY OF SAN DIEGO, CALIFORNIA

COUNCIL POLICY

SUBJECT: EMPLOYEE - EMPLOYER RELATIONS
POLICY NO.: 300-06
EFFECTIVE DATE: August , 2005

Deleted: November 16, 1992

I. PURPOSE:

A. This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State law, City Charter, ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City. It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by Federal or State law or the City Charter. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees, take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and complete control and discretion over its organization and the technology of performing its work.

II. AUTHORITY:

A. Chapter 10, Division 4, Title 1 of the Government Code of the State of California, as amended, provides for the promoting of 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.

B. Government Code Section 3507 empowers a city to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations.

III. POLICY:

A. Except as otherwise provided or authorized by law, employees of the City shall have the right to form, join and participate in the activities of employee organizations or their own choosing for the purpose of representation in accordance with this Resolution. 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 or her exercise of these rights.

B. Notwithstanding the foregoing paragraph, the City Council hereby designates the classification and positions comprising the Police Department Unit(s) as having duties consisting primarily of the enforcement of State and local laws, and employees in these classifications and positions shall be limited to forming, joining, participating and being represented by employee organizations which are composed solely of such law enforcement employees, which concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.

C. Management and Confidential employees as designated pursuant to this policy may not represent any employee organization on matters within the scope of representation, which represents other employees of the City.

IV. DEFINITIONS:

As used in this Resolution, the definitions of the following terms shall govern the construction of this resolution.

a. APPROPRIATE UNIT — means a unit of employee classes or positions, established pursuant to Article II hereof.

b. CITY — means the City of San Diego, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.

c. CONFIDENTIAL EMPLOYEE — means an employee, who, in the course of his or her duties, has access to information relating to the City's administration of employer-employee relations.

d. CONSULT/CONSULTATION IN GOOD FAITH — means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve and exchange of proposals and counter proposals in an endeavor to reach agreement nor is it subject to paragraph VII.

e. DAY — means calendar day unless expressly stated otherwise.

f. CITY MANAGER — means the City Manager or his duly authorized representative.

g. MANAGEMENT EMPLOYEE — means an employee having responsibility for formulating, administering or managing the implementation of City policies or programs. Management employees shall be designated by the City Manager.

h. PROOF OF EMPLOYEE SUPPORT — means:

(1) An authorization card recently signed and personally dated by an employee, or

(2) A verified authorization petition or petitions. 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 and that an employee organization filing a challenging petition to be formally acknowledged as the exclusively recognized employee organization, must file a Decertification Petition evidencing proof that at least fifty (50) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized organization and that fifty (50) percent of the employees in the established appropriate unit support the petitioner.

i. EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION — means an employee organization which has been formally acknowledged by the City as the sole employee organization that represents the employees in an appropriate representation unit pursuant to Paragraph V.

j. SUPERVISORY EMPLOYEE — means any employee having authority, in the interest of the City, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority if not of a merely routine or clerical nature, but requires the use of independent judgment. Supervisory Employees will be designated by the City Manager.

V. REPRESENTATION PROCEEDINGS:

A. Filing of Recognition Petition by Employee Organization.

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

1. Name and address of the employee organization.

2. Names and titles of its officers.

3. Names 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 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.

6. Certified copies of the employee organization's constitution and by-laws, including the constitution and by-laws of any affiliated organization as defined in paragraph 5 above.

7. A designation of that person and their address, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

8. A statement that the employee organization has no restriction on membership based on race, color, creed, sex national origin, age or physical disability.

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

10. A copy of proof of employee support as provided for herein.

11. A request that the City Manager formally acknowledge the petitioner as the Exclusively Recognized Organization representing the employees in an appropriate unit for the purpose of meeting and conferring in good faith.

The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

B. City Response to Recognition Petition.

Upon receipt of the Petition, the City Manager shall determine whether:

1. There has been compliance with the requirements of the Recognition Petition, and

2. The proposed representation unit is an appropriate unit in accordance with paragraph F.

If an affirmative determination is made by the City Manager on the foregoing two matters he shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and any employee organization previously recognized or having previously petitioned for recognition for any classification of employees included in the petition and shall take no action on said request for thirty (30) day thereafter. If either of the foregoing matters are not affirmatively determined, the City Manager 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 paragraph H of this resolution.

C. Open Period for Filing Challenging Petition.

Within thirty (30) days of the date written notice was given to affected employees and employee organizations that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization for 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 fifty (50) percent and otherwise in the same form and manner as set forth in paragraph A. If such challenging petition seeks

establishment of an overlapping unit, the City Manager 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 City Manager shall determine the appropriate unit or units in accordance with the standards in paragraph F. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the City Manager to amend their petitions to conform to such determination or to appeal such determination pursuant to paragraph H.

D. Election Procedure.

The City Manager shall arrange for a secret ballot election to be conducted by a party agreed to by the City Manager and the concerned employee organization(s), in accordance with this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Policy shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such elections shall be those employed in permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a runoff election.

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

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

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

E. Procedure for Decertification of Exclusively Recognized Employee Organization.

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents the employees in an established appropriate unit may be filed with the City Manager following the first full year of recognition under this revised policy, (only during the month of January of any year) or during the thirty (30) day period commencing one-hundred eighty (180) days prior to the termination date of a Memorandum of Understanding, whichever is later. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete.

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

2. The name of the established appropriate unit of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.

3. 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.

4. Proof of employee support that at least fifty (50) percent of the employees in he established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized 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 fifty (50) percent and otherwise conforms to the requirements of paragraph A.

The City Manager shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Policy. If his determination is in the negative, he 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 paragraph H. If the determination of the City Manager is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The City Manager shall thereupon arrange for a secret ballot election to be held 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 paragraph D.

F. Policy and Standards for Determination of Appropriate Units.

The Policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on:

1. The efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public.

2. Provide 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 unidentifiable community of interest. Factors to be considered shall be:

1. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

2. 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.

3. Consistency with the organizational patterns of the City.

4. Number of employees and classifications, and the effect on the administration of employee/employer relations created by the fragmentation of classifications and the proliferation of bargaining units.

5. Effect on the classification structure and impact on the stability of the employee/employer relationship of dividing a single or related classification among two or more units.

6. Professional employees shall not be denied the right to be represented separately from nonprofessional employees.

7. The exercise of appropriate supervisorial responsibilities over other City employees.

Notwithstanding the foregoing provisions of this section, managerial, and confidential responsibilities, as defined in paragraph IV of this resolution, are determining factors in establishing appropriate units hereunder, and therefore, managerial an confidential employees may only be included in a unit consisting solely of managerial or confidential employees respectively. Managerial and confidential employees may not represent, (on matters within the scope of representation) any employee organization which represents other employees.

The City Manager 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 policy.

G. Procedure for Modification of Established Appropriate Units.

Requests by employee organizations for modifications of established appropriate units may be considered by the City Manager only during the period specified in paragraph E. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirement set forth in paragraph A, 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 paragraph F. The City Manager shall process such petitions as any other Recognition Petitions under this policy.

The City Manager may on his own motion propose at appropriate times, that an established unit be modified. The City Manager shall give written notice of the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the City Manager shall determine the composition of the appropriate unit or units in accordance with paragraph F, and

shall give written notice of such determination to the affected employee organizations. The City Manager's determination may be appealed as provided in paragraph H. If a unit or units are modified, pursuant to the motion of the City Manager, so as to create a new unit or units, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units during the thirty (30) days immediately following the creation of such unit or units, by complying with the provisions of paragraph A.

H. Appeals.

An employee organization aggrieved by an appropriate unit determination of the City Manager under this Policy may appeal such determination to the City Council for final decision within fifteen (15) days of notice of the City Manager's determination.

An employee organization aggrieved by a determination of the City Manager that a Recognition Petition (paragraph A); Challenging Petition, (paragraph F) — or employees aggrieved by a determination of the City Manager that a Decertification Petition (paragraph F) — has not been filed in compliance with the applicable provisions of this Policy, may within fifteen (15) days of notice of such determination appeal to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk and a copy thereof served on the City Manager. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. Any decision of the City Manager 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.

VI. ADMINISTRATION:

A. 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 1 through 9 of its Recognition Petition, paragraph IV-A of this Resolution, shall be submitted in writing to the City Manager within fourteen (14) days of such change.

B. Payroll Deductions on Behalf of Employee Organizations.

Only Exclusively Recognized Employee Organizations are eligible for payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon written authorization of employees in the unit represented by the Exclusively Recognized Employee Organization on forms provided therefor by the City. The providing of such service to the Exclusively Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of an unexpired Memorandum of Understanding and/or applicable administrative procedures. In the event that a Memorandum of Understanding is not in effect or in the event an employee organization participates in, supports, cooperates or encourages, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work, the City may discontinue the payroll deduction of membership dues and insurance premiums for the Recognized Employee Organizations or in the alternative make such payroll deductions subject to

such administrative procedures as the City finds appropriate. Notwithstanding the foregoing, employees using the payroll deductions system to pay membership dues and/or insurance premiums to an employee organization, not the Exclusively Recognized Employee Organization, for the bargaining unit to which they are assigned, as of July 1, 1984, may continue to have such deductions made and may amend such deductions from time to time. Payroll deductions for employees not having deductions made to an employee organization as of July 1, 1984, will be processed only for the bargaining unit to which the employee's class is assigned.

C. 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 an unexpired Memorandum of Understanding and/or administrative procedures, and 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. In the event that a Memorandum of Understanding is not in affect or in the event that an employee organization participates in, cooperates or encourages directly or indirectly, any strike, sickout, or other total or partial stoppage or slowdown of work, the City may deny access to City work locations and may deny the use of City paid time, facilities, equipment and other resources by the employee organization and those representing them or in the alternative, make such access or use subject to such administrative procedures as the City finds appropriate.

D. Administration 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.

VII. IMPASSE PROCEDURES:

A. Initiation of Impasse Procedures.

If the meet and confer process has reached an impasse, either party may initiate the impasse procedures by filing with the City Council 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 City Manager. The purpose of such 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.

B. Impasse Procedures.

If no agreement is reached at an impasse meeting, impasses shall then be resolved by a determination by the Civil Service Commission or the City Council after a hearing on the merits of the dispute. Determination of which of the above bodies shall resolve a particular impasse shall be dependent upon:

1. The subject matter of the impasse, and

2. The applicable provisions of the Charter and Municipal Code of the City of San Diego as interpreted by the City Attorney.

VIII. IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING:

Memorandum of Understanding.

A. When the meeting and conferring process is concluded between the City and an Exclusively Recognized Employee Organization, all agreed upon matters shall be incorporated in a written Memorandum of Understanding signed by the Management Team and representatives of the Exclusively Recognized Employee Organization.

B. As to those matters within the authority of the Civil Service Commission, the Memorandum of Understanding shall be submitted to the Civil Service Commission for determination, or preliminary approval, if such matters must be then carried for final approval to the City Council.

C. As to those matters within the authority of the City Council, the Memorandum of Understanding shall be submitted to the City Council for determination.

D. On those matters that fall within the authority of the Civil Service Commission and/or City Council, no Memorandum of Understanding signed by the Management Team shall be binding upon the Civil Service Commission or City Council, until or unless ratified by the Civil Service Commission and/or City Council.

IX. MISCELLANEOUS PROVISIONS:

A. Construction.

This resolution shall be administered and construed as follows:

1. 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.

2. This Resolution shall be interpreted so as to carry out its purposes as set forth in paragraph 1.

3. 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.

B. Severability.

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

X. IMPLEMENTATION OF EMPLOYER-EMPLOYEE RELATIONS POLICY:

In recognition that the City has recognized certain employee organizations as the representative for certain defined bargaining units the following procedure shall be used to implement this Policy and shall not be applicable thereafter.

1. Employee organizations currently recognized as majority representatives under the existing Employer-Employee Relations Policy will be recognized as the Exclusively Recognized Employee Organization for the same units which were recognized immediately prior to the enactment of this policy upon filing the information called for in paragraph V, A, subparagraph 1 through 9 except that:

   a. The City Manager may review and modify the existing units according to the criteria set forth at paragraph V, F and subject to the appeals procedure at paragraph V, H; such review to occur during the period of June 1, 1981 to July 1, 1981 and

   b. Employee organizations not previously recognized as the Majority Representative may challenge the recognized employee organization in accordance with the procedures set forth at paragraph V, C, provided that such challenge is filed within the period of July 1, 1981 to August 1, 1981.

2. If, as a result of the City Manager's review of existing bargaining units completely new units are created or classes previously assigned to a bargaining unit are not assigned to a bargaining unit, employee organizations may petition to become the Exclusively Recognized Employee Organization in accordance with the procedures set forth at paragraph V.

   If a new bargaining unit is created consisting solely of classes previously represented by one Majority Representative, that Majority Representative will be recognized as the Exclusively Recognized Employee Organization for such unit subject to challenge as provided in paragraph 1 of this section.

3. If an existing Recognized Employee Organization does not comply within thirty (30) days with the requirements set forth in subparagraph 1 above, they will be deemed to have abandoned the unit or units for which they were previously recognized and the classes assigned to those units shall be deemed to be unrepresented.

XI. MANDATORY DISCUSSION OF PENSION SYSTEM UNFUNDED LIABILITY:

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A. No City officer, employee, or negotiator may engage in a meet and confer process with an Exclusively Recognized Employee Organization regarding proposed benefit enhancements until the City Council has been appraised of, and had an opportunity to discuss, the cost and impact that the proposed benefit enhancements would have on any unfunded accrued actuarial liability of the San Diego City Employees' Retirement System.

B. The prohibition set forth in section A is renewed each time that a different benefit enhancement is proposed for purposes of the meet and confer process.

HISTORY:
Adopted by Resolution R-204097 10/26/1971
Adopted by Resolution R-254002 04/13/1981
Adopted by Resolution R-255602 01/04/1982
Adopted by Resolution R-261025 06/25/1984
Adopted by Resolution R-281060 11/16/1992
Adopted by Resolution R-_____