

# **RESOLUTION NO. 2011-333**

Adopted by the Sacramento City Council

June 14, 2011

## **AMENDING THE EMPLOYER-EMPLOYEE RELATIONS POLICY**

### **BACKGROUND**

- A. The City of Sacramento's Employer-Employee Relations Policy (EERP) implements the Meyers-Milias-Brown Act, California Government Code Section 3500 et seq. governing labor relations in local agencies. The EERP defines the bargaining/representation units in the City and those classifications assigned to each unit.
- B. All representations units and the classification titles assigned to them require updating to reflect numerous changes to the City's classification plan that have occurred.
- C. Two (2) new representation units need to be created in recognition of the unique community of interest these classifications share.
- D. Representation Units 01, Exempt Management and 10, Confidential/Administrative must be modified to remove those classification titles that are assigned to one of the two (2) new representation units.

### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The Employer-Employee Relations Policy (Resolution No. 2010-095) is amended as attached as Exhibit 1.
- Section 2. Two new representation units shall be created: Executive Management designated as Representation Unit 20 and Mayor/Council Support designated as Representation Unit 21, and are attached as Exhibit 2.

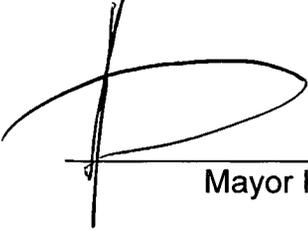
Adopted by the City of Sacramento City Council on June 14, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



\_\_\_\_\_  
Mayor Kevin Johnson

Attest:



\_\_\_\_\_  
Shirley Concolino, City Clerk

## EMPLOYER-EMPLOYEE RELATIONS POLICY

### ARTICLE I – STATEMENT OF PURPOSE

This Resolution is enacted pursuant to California Government Code Sections 3500 et seq., to establish orderly procedures to promote full communication between the City and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the City and its employee organizations. It is the purpose of this Resolution to promote the improvement of personnel management and employer-employee relations within the City by providing a uniform basis for recognizing the right of its employees to join organizations of their own choice and be represented by such organizations in their employment relationship with the City.

Nothing contained herein shall be deemed to supersede the provisions of existing State law, the 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 and the City.

### ARTICLE II – AUTHORITY OF CITY MANAGER

The City hereby declares, as a matter of policy, that the City Council and its members will deal with employee organizations and their representatives solely through the City Manager except when otherwise expressly provided for by the terms of this Resolution.

### ARTICLE III – DEFINITIONS

1. The terms "employee organization", "recognized employee organization", and "mediation" have the meanings specified in California Government Code Section 3501.

2. The meaning of "scope of representation" is as that term is defined in California Government Code Section 3504.

3. Except as otherwise provided for in a collective bargaining agreement, an "employee" shall mean (a) a full-time career employee, or (b) an employee who works, within one year from each date of employment, in excess of 1,040 hours during a continuous period of employment of more than six (6) months.

4. "Confidential Employee" means an employee who regularly participates in making or regularly has advance knowledge of decisions of the City affecting employee relations.

5. "Management Employee" means an employee having responsibility for formulating, administering, or managing the implementation of City policies and programs.

6. "Supervisory Employee" means an employee having responsibility for assigning and directing the work of other employees, or for rewarding or disciplining them, or for adjusting 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.

7. "Professional Employee" means an employee engaged in work (a) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, and (b) involving the consistent exercise of discretion and judgment in its performance, and (c) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, and (d) requiring knowledge of an advanced type 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 or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental manual or physical processes.

8. "Employee Relations Officer" means the City Manager or his duly authorized representative.

9. "Proof of Employee Approval" is demonstrated under this Resolution by (a) an authorization card recently signed by an employee, or (b) employee dues deduction authorizations, using the payroll immediately prior to the date a petition is filed hereunder, except that deductions for more than one employee organization for the account of any one employee shall not be considered proof of employee approval for more than one employee organization, or (c) a verified authorization petition or petitions recently signed by an employee. The words "recently signed" mean signed within one hundred eighty (180) days prior to the filing of a petition hereunder.

10. "Impasse" means a deadlock in discussions between a recognized employee organization and the Employee Relations Officer over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter.

#### ARTICLE IV – REPRESENTATION UNITS

The representation units set forth in Exhibit "A" attached hereto are the appropriate units for representation by recognized employee organizations.

#### ARTICLE V – RECOGNIZED EMPLOYEE ORGANIZATIONS

An employee organization that wishes to be certified as the recognized employee organization for a designated representation unit for which unit no employee organization has been certified shall file a recognition petition with the Employee Relations Officer.

1. Petition – The petition shall be signed by the organization's duly authorized officers, and shall contain the following information and documentation:

- (a) The name and mailing address of the organization.
- (b) The names and titles of its officers.
- (c) Designation of those persons, not exceeding three in number, and their addresses, to whom notice sent by regular mail will be deemed sufficient notice on the organization for any purpose.
- (d) A statement that the organization does not discriminate or restrict membership or participation based on race, color, creed, national origin, or sex.
- (e) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- (f) A statement that the employee organization agrees to comply with the provisions of this Resolution.
- (g) A copy of its constitution and bylaws, if any.
- (h) Identification of the representation unit for which petitioner seeks certification as the recognized employee organization.
- (i) Proof of employee approval of thirty percent (30%) or more of the employees within such representation unit.

The Employee Relations Officer shall give written notice of such petition to the petitioner, to the employees involved and to any employee organization that has filed a written request for receipt of such notice to him. Within thirty (30) days of the date of such notice, other employee organizations may file a challenging petition seeking to become the recognized employee organization within such representation unit.

## 2. Election

- (a) Calling of Election – The Employee Relations Officer shall, whether or not a challenging petition is filed, request the State Conciliation Service to call and conduct a secret ballot election in accordance with its own procedures and regulations and pursuant to the election procedures as herein below set forth. If a challenging petition is filed, and is accompanied by proof of employee approval equal to at least ten percent (10%) of the employees within the representation unit, the State Conciliation Service shall include such challenging employee organization on the ballot.
- (b) Election Procedures – Whenever the State Conciliation Service calls an election pursuant hereto, it shall include the choice of no organization on the ballot. Employees entitled to vote in a representational election shall be those employees within the representation unit whose name appeared on the payroll immediately prior to the date of the election. An employee

organization shall be certified by the Employee Relations Officer as the recognized employee organization within the representation unit if...

- (1) That employee organization has received the vote of a numerical majority of all the employees eligible to vote in the unit of which the election is held, or,
- (2) More than fifty percent (50%) of the total number of employees in the unit eligible to vote have voted in the election, and the employee organization receives a numerical majority of all votes cast in the election, or,
- (3) In an election involving three or more choices, where none of the choices receives a majority of the ballot votes cast, and where more than fifty percent (50%) of the total number of employees in the unit eligible to vote have voted in the election, a run-off election shall be conducted between the two choices receiving the largest number of ballot votes cast; the rules governing an initial election being applicable to a run-off election.

3. Decertification Procedures – A decertification petition may be filed with the Employee Relations Officer by employees or an employee organization to determine whether or not a recognized employee organization continues to represent a majority of the employees in the representation unit. Such petition must be accompanied by proof of employee approval equal to at least thirty percent (30%) of the employees within the representation unit. The time periods for a petition to be filed with the Employee Relations Officer are: a) after the first full year of recognition if no written agreement has been negotiated; b) within the period commencing ninety (90) and ending sixty (60) days immediately prior to the expiration date of a written agreement; or c) any time after a written agreement has been in effect for five years or more. When such a valid petition has been filed, the State Conciliation Service shall be requested to conduct an election to determine whether or not the incumbent recognized employee organization shall be decertified, and where filed by an employee organization, whether such organization shall be recognized. Such election shall be in accordance with the procedures and regulations of the State Conciliation Service, and the election procedures as hereinabove set forth.

4. In the event that the State Conciliation Service is unable to or unwilling to provide any of the services required of it by paragraphs 2 and 3 above, the American Arbitration Association, or another impartial third party agreed to by the City and the concerned employee organization(s), shall perform said services.

5. Costs of conducting elections, if any, shall be borne equally by the City and the employee organization(s).

6. Recognized employee organizations shall annually, on or before the anniversary date of recognition, file a written statement with the Employee Relations Officer, indicating changes in items (a) through (g) as they appeared in the recognition petition filed pursuant to paragraph 1 of this Article, or as subsequently amended by a written statement hereunder, or, as appropriate, shall indicate that there has been no change in

such information. The statement shall be signed by the duly authorized officers of the recognized employee organization.

#### ARTICLE VI – MEET AND CONFER

Upon request, a recognized employee organization shall have the right to meet and confer in good faith regarding matters within the scope of representation with the Employee Relations Officer and/or his designees. Provided, however, that nothing herein shall require meeting and conferring between parties to a Memorandum of Understanding during the term of such Memorandum regarding matters to take effect during such term, except that such parties may meet and confer during such term on a matter within the scope of representation where (a) the matter was not covered by the Memorandum or expressly raised as an issue during the meeting and conferring process out of which such Memorandum arose, and (b) there shall have arisen a significant change in circumstances with respect to such matter, which could not have reasonably been anticipated by both parties at the time they signed such Memorandum.

Employees in classifications not included in supervisory and confidential representation units shall not participate in meeting and conferring or grievance resolution processes pertaining to supervisory and confidential representation unit classifications.

In the absence of express authorization in advance by the Employee Relations Officer, not more than two City employees representing a recognized employee organization requesting such a meeting shall be entitled to attend without loss of compensation or other benefit, nor shall more than a total of three representatives for each recognized employee organization be entitled to attend such meetings.

City employees who shall represent a recognized employee organization at such meeting shall give reasonable advance notice thereof to their immediate supervisor, but in no event shall such notice be given less than one full working day or shift before the meeting; except, however, that the Employee Relations Officer may, in his discretion, waive this requirement for advance notice.

If agreement is reached on matters subject to approval by the City Council or by the Civil Service Board or Retirement Board, the parties shall jointly prepare a written memorandum of such understanding, and the Employee Relations Officer shall present it to the Council or such Board, as appropriate, for determination. If agreement is reached on matters not subject to such approval, the Employee Relations Officer and the recognized employee organization(s) shall, at the request of one of the parties, prepare a written memorandum of such understanding.

#### ARTICLE VII – PAYROLL DEDUCTIONS

Only recognized employee organizations shall have the right to have the regular membership dues of its members deducted from employees' paychecks upon the written authorization of each such employee member in such form as will not infringe upon an employee's rights under California Government Code Sec. 3502.

This Article shall not be construed to restrict a recognized employee organization from meeting and conferring with the City regarding additional payroll deductions upon the written authorization of employees in such representation unit.

#### ARTICLE VIII – COMMUNICATION WITH EMPLOYEES

Reasonable access to employee work locations shall be granted to officers of recognized employee organizations for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such officers shall not enter any work location without previous notice to and consent from the Department Head or his designee, and access may be restricted so as not to interfere with departmental operations or with established safety and security requirements.

Campaigning for office, conducting meetings or elections, and other internal employee organization business of a similar nature shall not be carried on during work hours.

#### ARTICLE IX – USE OF CITY FACILITIES

City buildings and other facilities may be made available for use by City employees or an employee organization or their representatives in accordance with administrative procedures governing such use.

#### ARTICLE X – ADVANCE NOTICE

Except in cases of emergency as provided in this Article, the City Council, the Civil Service Board and the Retirement Board, shall give reasonable written notice to each recognized employee organization affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, the Civil Service Board, or the Retirement Board, and shall give such recognized employee organization the opportunity to meet with the City Council, the Civil Service Board, or the Retirement Board. The Council or such Board shall, upon request of the Employee Relations Officer or a recognized employee organization, delay consideration of the matter proposed to be acted upon for such period of time deemed to be reasonable by the Council or such Board, to give the parties an opportunity to meet and confer thereon in order to endeavor to agree upon a joint recommendation to be made to the Council or such Board.

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

## ARTICLE XI – EMPLOYEE ORGANIZATION

Employee organizations may represent their individual employee members in individual employment relations, including grievances, to the extent required by the Government Code.

## ARTICLE XII – INDIVIDUAL EMPLOYEES

Nothing in this Resolution shall be construed to restrict or in any way modify the right of an individual employee to present matters involving his individual employment relationship to the appropriate level of management, provided that any action taken in not inconsistent with the terms of a memorandum or understanding then in effect, and that before any action is taken which could affect the terms and conditions of employment of other employees in the representation unit, such proposed action is communicated to the recognized employee organization for its opinion on the merits and the effect on the proposed action.

## ARTICLE XIII – PROHIBITION AGAINST DISCRIMINATION

No appointing authority or his representative shall discriminate for or against any employee organization, or in any way coerce or influence any employee in his free choice to join or refrain from joining any employee organization.

It is the policy of the City to affirmatively support and encourage equal opportunity of employment for members of racial, religious and other minority groups. If evidence of such discrimination by an employee organization comes to the attention of the Employee Relations Officer, it shall be his duty to refer such evidence to an appropriate legal authority having jurisdiction thereof, if any.

## ARTICLE XIV – APPLICATION OF LABOR CODE SECTION 923

The enactment of this Resolution shall not be construed as making the provisions of Section 923 of the Labor Code applicable to employees or employee organizations.

## ARTICLE XV – IMPASSE PROCEDURES

1. Initiation of Impasse Procedures – Impasse procedures may be invoked after the possibility of settlement by direct discussion has been exhausted. Any party may initiate the impasse procedures by filing with the other party or parties 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 by the Employee Relations Officer forthwith after the date of filing of the written request for such meeting, with written notice to all parties affected. The purpose of such impasse meeting shall be two-fold:

- (a) To permit a review of the position of all parties in a final effort to reach an agreement on the disputed issues; and

- (b) If agreement is not concluded, to discuss arrangements for implementing the specific impasse procedure or procedures to which the dispute shall be submitted.

2. Impasse Procedures – Impasse procedures are as follows:

- (a) If the parties so agree, the dispute shall be submitted directly to the City Council for determination.
- (b) If they do not so agree with a reasonable period of time, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues. 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 body for any reason shall fail to provide such list, by the American Arbitration Association. The recognized employee organization or organizations shall first strike one name, the Employee Relations Officer shall then strike one name, and the name remaining shall be the mediator.
- (c) 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.
- (d) If the parties fail to agree to submit the dispute directly to the City Council, the disputed issues shall be submitted to fact-finding.

The parties may agree on the appointment of one or more fact-finders. If they fail to so agree, a fact-finding panel of three shall be appointed in the following manner: One member of the panel shall be appointed by the Employee Relations Officer, one member shall be appointed by the recognized employee organization, and those two shall name a third, who shall be the chairman. If they are unable to agree upon a third, they shall select the third member from a list of five names to be provided by the American Arbitration Association, the one to serve to be determined by the alternate striking of names, with the party who is to strike the first name to be determined by chance method.

The following constitute the jurisdictional and procedural requirements for fact-finding:

- (1) Fact-finders shall not have served as mediator in the same impasse under subparagraph (b), and shall not be employees or officers of the City or members of one of the City's employee organizations.
- (2) Fact-finding is authorized hereunder in connection with all disputed issues that are within the scope of representation.

- (3) The fact-finder(s) shall, to the extent they are applicable, determine and apply the following standards to the disputed issues in making recommendations:
- (i) City job classifications shall be compared to comparable job classifications in private and public employment in the Sacramento metropolitan area, and in the three California cities next larger and the three California cities next smaller in population than Sacramento, to the extent such can be reasonably done.
  - (ii) In determining job comparability, the following factors will be considered: The nature and complexity of the duties involved; the degree of supervision received and exercised; the educational, experience and physical qualifications, and the special skills required; the physical working conditions; and the hazards inherent in the job.
  - (iii) Comparisons shall be in terms of total compensation and benefits of employment, and, to the extent feasible, shall be measured in monetary terms.
  - (iv) The comparison data as hereinabove provided for shall, to the extent feasible, be adjusted as appropriate for differences in the cost of living in Sacramento as compared to other cities considered; the benefits of job stability and continuity of employment; difficulty of recruiting qualified applicants; and equitable employment benefit relationships between job classifications in City employment.
  - (v) The state of the economy in the Sacramento metropolitan area, and the financial condition and resources of City government, shall be considered.
- (4) The fact-finder(s) shall make written findings of fact and recommendations for the resolution of the issues in dispute, which shall be presented in terms of the standards specified in (3) above. The fact-finder or chairman of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Officer and the designated representative of the recognized employee organization. If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, and in no event later than ten (10) days prior to the final date set by law for fixing of the tax rate, the fact-finder or the chairman of the fact-finding panel shall make them public by submitting them to the City Clerk for consideration by the City Council in connection with the Council's legislative determination of the issues.
- (5) Costs of mediation and fact-finding shall be divided one-half to the City and one-half to the recognized employee organization.

**CLASSIFICATION LISTING  
NEW REPRESENTATION UNITS**

**Representation Unit 20  
Executive Management**

Assistant City Attorney  
Assistant City Clerk  
Assistant City Manager  
Assistant City Treasurer  
Budget Manager  
Chief Information Officer  
City Attorney  
City Auditor  
City Clerk  
City Manager  
City Treasurer  
Deputy City Manager  
Deputy Police Chief  
Director of Community Development  
Director of Convention Culture & Leisure  
Director of Economic Development  
Director of Finance  
Director of General Services  
Director of Governmental Affairs  
Director of Human Resources  
Director of Parks and Recreation  
Director of Public Safety Accountability  
Director of Transportation  
Director of Utilities  
Executive Director, SAC CCOMWP  
Fire Chief  
Fire Deputy Chief  
Labor Relations Manager  
Media and Communications Officer  
Police Chief  
SAFCA Executive Director  
Staff Aide (Management)

**Representation Unit 21  
Mayor/Council Support**

Auditor  
Chief of Staff to the Mayor  
Council Operations Manager  
District Director  
Executive Assistant (Ex)  
Independent Budget Analyst  
Mayor/Council Intern  
Special Assistant to the Mayor  
Staff Aide (Mayor/Council)  
Staff Assistant (Ex)