

**EMPLOYER-EMPLOYEE RELATIONS RESOLUTION**

WHEREAS, the County of Tehama desires to implement the Meyers-Milias-Brown Act (MMBA), California Government Code sections 3500, et seq., by providing orderly procedures for the administration of employer-employee relations between the County and its employee organizations; and

WHEREAS, Section 3507 of the Government Code permits a public agency to adopt reasonable rules and regulations governing employer-employee relations after consultation in good faith with representatives of recognized employee organization(s); and

WHEREAS, the County desires to amend its local rules and regulations governing employer-employee relations to ensure they are updated and consistent with recent amendments to the MMBA; and

WHEREAS, the County has provided notice of this employee relations resolution to all affected recognized employee organizations, and all such organizations have had the opportunity to meet and consult regarding the contents of this resolution pursuant to the MMBA;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Tehama, as follows:

**ARTICLE I – GENERAL PROVISIONS**

**Section 1. Purpose**

- A. It is the purpose of this Resolution to establish reasonable rules and regulations for the administration of employer-employee relations governing full-time and regular part-time employees in the County of Tehama, including without limitation rules for determining representation status, bargaining units, impasse procedures and other labor relations rules which fall under the responsibility of the Board of Supervisors. However, nothing herein shall be construed to restrict any legal or inherent County rights with respect to matters of general legislative, management, administrative and policy setting decisions, including but not limited to those enumerated in Article I, Section 3 (*County Management Rights*), of this Resolution.

**Section 2. Definitions**

- A. As used in this Resolution, the following terms have the meanings indicated:

1. **Administrative Management Employee** means an employee, as reasonably designated by the County, having significant responsibilities for formulating and administering county policies and programs including but not limited to the County Department heads.
2. **Board** means the Board of Supervisors of the County of Tehama.
3. **Confidential Employee** means an employee, as reasonably designated by the County, who in the course of his or her duties has access to confidential information relating to the County's administration of employer-employee relations.
4. **Consult** or **Consultation in Good Faith** means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a memorandum of understanding; nor is it subject to Article IV (*Impasse Procedures*) herein.
5. **County** means the County of Tehama and, where appropriate herein, includes the Tehama County Board of Supervisors or any duly authorized County representative.
6. **Day** means calendar day unless expressly stated otherwise.
7. **Decertification** means the process and the outcome whereby the County formally withdraws the exclusively recognized representation status of an employee organization after a vote of the employees in the bargaining unit that the organization had represented as further specified in this Resolution.
8. **Decertification Petition** means a written document that includes proof of employee support of at least thirty percent (30%) of the employees who are eligible to vote in an election for the representation unit; and complies with the requirements stated in Article II, Section 6 (*Procedure for Decertification of Exclusively Recognized Employee Organization*), of this Resolution.
9. **Employee** means a person occupying a full-time or part-time allocated position in County service, except for elected officials.
10. **Employer-Employee Relations** means the relationship between the County of Tehama, its employees and other employee organizations on matters of employment.
11. **Exclusively Recognized Employee Organization** means an organization that has been formally certified by the County, after a representation election,

as the sole employee organization representing the employees in an appropriate unit pursuant to Article II (*Representation Proceedings*) of this Resolution. Exclusively recognized employee organizations have the exclusive right to meet and confer in good faith with County representatives concerning statutorily required subjects pertaining to the unit they represent and thereby assume the corresponding obligation of fairly representing such employees.

12. **Impasse** means a deadlock in negotiations concerning matters within the scope of representation.
13. **Mediate** or **Mediation** means the efforts of an impartial third party, functioning as an intermediary, to assist the representatives of the County and an exclusively recognized employee organization in reaching a voluntary resolution of an impasse through interpretation, suggestion and advice. Mediations shall be confidential, and mediators may not make public recommendations, unless the parties mutually agree in writing.
14. **Meet and Confer in Good Faith** means the mutual obligation of the designated representative of the County and the designated representatives of an exclusively recognized employee organization, personally to meet and confer upon request by either party and continue for a reasonable period of time in order to freely exchange information, opinions and proposals and to endeavor to reach agreement on matters within the scope of representation.
15. **Memorandum of Understanding (MOU)** means a written agreement between the County and the exclusively recognized employee organization regarding wages, benefits, hours and other terms or conditions of employment within the scope of representation. MOUs -- including any labor agreement or part thereof purporting to create an economic obligation on the County -- shall not be valid or enforceable unless and until adopted by the Board of Supervisors.
16. **Notice** means depositing the information at issue, properly addressed with correct postage for first-class delivery, in a United States Postal Service (USPS) facility. Unless otherwise specified in this Resolution or otherwise agreed upon between the affected parties in writing, notice shall be complete upon deposit in a USPS mailbox or facility. Notices sent by the County to the address last provided by the exclusively recognized employee organization to the County's Personnel Director shall be deemed "properly addressed".
17. **Proof of Employee Support** means an authorization card or petition recently signed and dated by an employee who is eligible to vote in a representation election. The phrase "recently signed" means that the employee executed the authorization card or petition within ninety (90) days of the date that the employee organization filed its petition.

18. **Recognition Petition** means a written document that includes proof of employee support of at least thirty percent (30%) of the employees in the proposed unit who are eligible to vote; and complies with the requirements stated in Article II, Section 1 (*Procedure for Filing of Recognition Petition(s) by Employee Organization(s)*), of this Resolution.
19. **Supervisory/Management Employee** means any employee having the authority to exercise independent judgement in assigning work or evaluating performance and to effectively recommend on actions to hire, promote, transfer, lay off, recall, discipline, suspend, discharge or adjust grievances of other employees, 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.
20. **Unit or Representation Unit** means a group of County job classifications which either the Personnel Director or the Chief Administrator has determined constitute an appropriate collective bargaining unit under Article II, Section 4 (*Policy and Standards for Determination of Appropriate Unit(s)*), of this Resolution or Article II, Section 8 (*Appeals*), of this Resolution, respectively.
21. **Unit Modification** means to alter an established unit pursuant to Article II, Section 7 (*Procedure for Modification of Established Appropriate Unit(s)*), of this Resolution by dividing that single unit into two or more bargaining units, or combining that unit with another established bargaining unit in whole or in part. A unit modification may also be used as a vehicle to add a classification or a group of classifications into an existing unit or to sever a group of classifications from the existing unit.
22. **Unit Modification Petition** means a written document that includes proof of employee support of at least thirty percent (30%) of the employees eligible to vote in an election for the proposed employee representation unit; and complies with the requirements stated in Article II, Section 7 (*Procedure for Modification of Established Appropriate Unit(s)*), of this Resolution.

### **Section 3. County Management Rights**

- A. Unless specifically in conflict with any MOU, all management rights shall remain vested exclusively with the County. County management rights include but are not limited to:
  1. The right to determine the mission, merits, necessity and organization of its departments, boards and commissions;
  2. The right to manage and control its buildings and facilities, to create, change, combine or abolish jobs, policies, departments and facilities, in whole or in part;

3. The right of full and exclusive control of the management of the County; supervision of all operations; determination of methods, means, locations and assignments of performing all work; and the composition, assignment, direction, location and determination of the size and mission of its work force;
4. The right to determine the work to be done by employees, including establishment of service levels, appropriate staffing and the allocation of funds for any position(s) within the County;
5. The right to review and inspect, without notice, all County owned facilities, including without limitation desktop computers, work areas and desks, e-mail, computer storage drives, voicemail systems and filing cabinets and systems;
6. The right to change or introduce different, new or improved operations, technologies, methods or means regarding any County work, and to contract out for work or to discontinue work for economic or operational reasons;
7. The right to establish and modify qualifications for employment, including the content of any job classification, job description or job announcement, and to determine whether minimum qualifications are met;
8. The right to establish and enforce employee performance standards, to adopt rules of conduct and penalties for violation(s) thereof and to maintain the discipline and efficiency of its employees;
9. The right to establish work standards, schedules of operation and reasonable workloads; to specify or assign work requirements and require overtime; to schedule working hours and shifts; to determine the type and scope of work to be performed by County employees and the services to be provided;
10. The right to hire, fire, promote, discipline, reassign, transfer, release, layoff, terminate, demote, suspend or reduce in step or grade, all employees;
11. The right to establish and modify bargaining units, and to designate positions as management, supervisory or confidential;
12. The right to inquire and investigate regarding complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require employees to appear, respond truthfully and cooperate in good faith regarding any County investigation;
13. The right to require fitness for duty evaluations upon any reasonable cause;
14. The right to require employees to submit to drug and/or alcohol testing upon reasonable suspicion; and
15. The right to maintain orderly, effective and efficient operations and to take whatever actions are necessary to prepare for and operate in an emergency.

- B. The right and responsibility for final decisions regarding wages, hours, fringe benefits and other terms and conditions of employment rests solely with the Board of Supervisors.

**Section 4. Exclusion of Administrative Management, Confidential and Supervisory Employees**

- A. Employees designated by the County as administrative management, management or confidential shall not represent in any labor relations capacity any non-management, non-supervisory or non-confidential employees, and furthermore shall not represent in a labor relations capacity any employee organization that represents employees who are non-management, non-supervisory or non-confidential. Supervisory employees may not represent non-supervisory employees assigned within the same department in matters of employee relations pertaining to grievance and discipline matters.
- B. Employees designated by the County as administrative management, management or confidential shall not serve on committees of a recognized employee organization which represents employees who are not management or confidential.

**Section 5. Employee Rights**

- A. Except as otherwise provided by law, County employees have the right to form, join and participate in the activities of an exclusively recognized employee organization of their own choosing for the purpose of representation on all matters of employer-employee relations.
- B. County employees have the right to refuse to participate in the activities of exclusively recognized employee organizations. The right of County employees to represent themselves individually is limited to expressing individual concerns and, consistent with California Government Code Section 3503, does not include any right to meet and confer with County representatives regarding the terms and conditions of employment.
- C. Employees shall not be interfered with, intimidated, restrained, coerced or discriminated against because of their exercise of these rights.

**Section 6. Exclusively Recognized Employee Organization Rights**

- A. Reasonable advance notice shall be given to each exclusively 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 Board. Reasonable advance notice shall consist of mailing of the proposed agenda item to the affected exclusively recognized employee organization.

- B. Heads of departments of more than fifteen (15) employee having bulletin board space shall designate at least one posting space in each noncontiguous location as available for use by each recognized employee organization. No posting shall be made on County premises in space other than that provided except for postings relating to official business. Bulletin boards shall be used only to inform members of the procedure for joining the organization, notification of meetings or organizational elections, or for other similar internal business matters. They shall not be used for presenting arguments, making charges or for matters that may adversely affect the management or employee morale within the County and its constituent departments.
- C. Exclusively recognized employee organizations shall, upon request, be granted the use of general meeting space by each department head before or after the regular work shift, except in cases in which such permission could interfere with the duties of the department. In the case of departments with continuing or staggered shifts, arrangements shall be made for space at other suitable locations that will not interfere with the operations of the department.
- D. A department head shall, upon reasonable advance notice, permit authorized employee representatives to contact individual members in County facilities during working hours if such contact is not disruptive to County business and does not occur with undue frequency. Employees shall not be approached in the field except upon expressed approval of the department head or his authorized representative. Membership solicitation, collection of dues or other general organizational business shall not be conducted on County time nor in areas not generally open to the public, except as may occur during scheduled meetings before or after a regular work shift.
- E. An exclusively recognized employee organization may have the regular dues of its members within a designated unit deducted from the employee's pay warrants. Membership dues deductions shall be made only upon the written authorization of the individual employee on a form acceptable to the County Auditor.
- F. In meetings with management representative(s) an exclusively recognized employee organization may be represented by not more than five (5) persons who have been designated as authorized representatives in accordance with the provisions of this Resolution. Two (2) of the five (5) representatives designated must be employees of the County bargaining unit represented by the organization. Meetings shall be scheduled so as not to unreasonably interfere with the operation of any County department.

## **ARTICLE II – REPRESENTATION PROCEEDINGS**

### **Section 1. Filing of Recognition Petition(s) by Employee Organization**

- A. An employee organization that seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an

appropriate unit shall file with the Personnel Director a petition 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, the responsibility of representing employees in their employment relations with the County.
  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 such other organization.
  6. Certified copies of the employee organization's constitution and bylaws.
  7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
  8. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability, or medical condition.
  9. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
  10. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that at least thirty percent (30%) of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Personnel Director or to a mutually agreed upon disinterested third party.
  11. A request that the Personnel Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.
- B. The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty

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

## **Section 2. County Response to Recognition Petition(s)**

- A. Upon receipt of the petition, the Personnel Director shall determine whether or not:
1. There has been compliance with the requirements of the recognition petition as specified in Article II, Section 1 (*Procedure for Filing of Recognition Petition(s) By Employee Organization(s)*); and
  2. The proposed representation unit is an appropriate unit in accordance with Article II, Section 4 (*Policy and Standards for Determination of Appropriate Unit(s)*).
- B. If the Personnel Director determines that the requirements of paragraph A of this Section have not been met, he/she shall inform the petitioning organization in writing of the reasons for the determination and shall offer to consult thereon with such petitioning employee organization. The petitioning organization shall have fifteen (15) days from the date of notice of the determination by the Personnel Director to perfect the petition, provided that this time period shall not be used to obtain additional proof of employee support. If the Personnel Director determines that the criteria in paragraph A of this section are still not met, he/she shall inform that organization, in writing, of the reasons for the determination. Upon receipt of this notice, the petitioning employee organization may appeal a negative determination in accordance with Article II, Section 8 (*Appeals*), of this Resolution. The fifteen (15) day appeal deadline, as specified in the previously referenced section, shall commence two (2) days after proof of service mailing.
- C. If the Personnel Director makes an affirmative determination on the two matters set forth in paragraph A, above, he/she shall inform the petitioning employee organization, shall give written notice regarding the filing of the recognition petition to the affected employees in the proposed unit within the initial thirty (30) day period and shall take no action on the petition for thirty (30) days after the date of notice.

## **Section 3. Open Period for Filing Challenging Petition**

- A. Within thirty (30) days after the date the Personnel Director gives written notice to affected employees per Article II, Section 2 (*County Response to Recognition Petition(s)*), 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 of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications set forth in the recognition petition being challenged) by filing a petition and proof of employee support in accordance with Article II, Section 1 (*Procedure for Filing of Recognition Petition(s) by*

*Employee Organization(s)*). This procedure is only used in response to the initiating petition(s).

- B. The Personnel Director shall respond to the challenging petition(s) in accordance with Article II, Section 2 (*County Response to Recognition Petition(s)*). If such challenging petition(s) propose an overlapping unit, the Personnel Director shall hold a hearing on such overlapping petitions within fifteen (15) days of the close of the filing period for the purpose of ascertaining the appropriate unit. The hearing shall be informal and shall provide all employee organizations the right to be heard. Thereafter, the Personnel Director, within thirty (30) days after the hearing, shall determine the appropriate unit or units in accordance with the standards in Article II, Section 4 (*Policy and Standards for Determination of Appropriate Unit(s)*), of this Resolution and provide written notice of the unit determination to all affected employee organizations. The petitioning organization(s) shall have fifteen (15) days after the date of the Personnel Director's notice of unit determination to appeal the unit determination pursuant to Article II, Section 8 (*Appeals*), of this Resolution.

#### **Section 4. Policy and Standards for Determination of Appropriate Unit(s)**

- A. The standards for determining the appropriateness of units focus upon the effect of a proposed unit on the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public; and providing employees with effective representation based on a recognized community of interest. To the maximum extent permitted by law, the County retains the final authority to determine the appropriate composition of bargaining units.
1. These standards require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Subfactors that are to be considered include, but are not limited to, the following:
    - a. The unit will minimize fragmentation and achieve the largest feasible group of employees having a general community of interest.
    - b. History of representation in the County and similar public 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. Similarity of the general kinds of work performed, types of qualifications required and the general working conditions.
    - d. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single classification among two or more units. Unless specifically approved by the Board, bargaining

units must comprise all positions within the classification assigned to the unit.

- e. Consistency with the organizational patterns of the County.
- f. The existence of specific legal requirements that enable certain employees to form their own bargaining units.
- g. The application and consistency of wage, hour and benefit packages, including retirement benefits, within the bargaining unit.
- h. The County's designations of management, supervisory and confidential positions.

### **Section 5. Election Procedure**

- A. The Personnel Director shall arrange for a secret ballot election to be conducted as soon as practical after all of the following:
  - 1. The conclusion of the thirty (30) day open period for filing a challenging petition(s) set forth in Article II, Section 3 (*Open Period for Filing Challenging Petition*);
  - 2. The Personnel Director makes an affirmative determination that the Article II, Section 2 (*County Response to Recognition Petition(s)*), paragraph A, requirements or the Article II, Section 6 (*Procedure for Decertification of Exclusively Recognized Employee Organization*), requirements or the Article II, Section 7 (*Procedure for Modification of Established Appropriate Unit(s)*), requirements, have been met; and
  - 3. The time for unit determination appeals under Article II, Section 8 (*Appeals*), has run. The Personnel Director shall utilize the services of the State of California Mediation and Conciliation Service to conduct all elections.
- B. The following selections shall appear on the ballot:
  - 1. All employee organizations which the County has determined have timely submitted petitions that comply with Article II, Section 2 (*County Response to Recognition Petition*), paragraph A or Article II, Section 7 (*Procedure for Modification of Established Appropriate Unit(s)*), requirements;
  - 2. The incumbent exclusively recognized employee organization, if any; and
  - 3. "No representation". The choice of "no representation" shall not appear on a unit modification election ballot unless a modification petition is filed concurrently with a decertification petition. In the case of an election resulting

from a decertification petition filed by a group of employees, the ballot shall offer the sole choice of whether to retain the incumbent organization or not.

C. Employees eligible to vote in an election are:

1. Those who hold regular full- or part-time positions within classifications in the unit. Notwithstanding any of the above, no person is eligible to vote unless the person is employed on the last day of the last completed pay period immediately preceding the date the election commences or another date designated by the Personnel Director.
2. Employees eligible to vote include those who did not work during such period because of illness, vacation or other authorized leaves of absence and who are employed by the County in the same unit on the date of the election.

D. An employee organization is eligible for status as the exclusively recognized employee organization for a proposed unit following an election, or run-off election, if the organization receives a numerical majority of all valid votes cast in the election. A vote is "valid" if it was cast by an eligible voter, it is readily apparent which selection has been made on the ballot, and only one choice is marked in response to each of the question(s) on the ballot. In an election involving three or more choices, when 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 as stipulated in the election agreement and shall be binding on all parties.

The rules governing an initial election shall be applicable to a run-off election. The Personnel Director shall provide a written report to the Board regarding the outcome of such elections. If satisfied as to the validity of the process, the Board shall formally certify the winning organization, if any, as the exclusively recognized employee organization for the contested bargaining unit.

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

F. Costs, if any, of conducting elections, such as for hiring a third party, renting a facility or other agreed upon costs, shall be borne in equal shares by the County and by each employee organization appearing on the ballot.

G. Notwithstanding the procedures in this resolution, the County shall grant exclusive recognition to an employee organization based on a signed petition, authorization cards, or union membership cards showing that a majority of the employees in a bargaining unit determined appropriate by the County desire the representation, unless another labor organization has previously been lawfully recognized as exclusive or majority representative of all or part of the same unit. Exclusive representation shall be determined by a neutral third party selected by the public agency and the employee organization who shall review the signed petition, authorization cards, or union membership cards to verify the exclusive or majority

status of the employee organization. In the event the parties cannot agree on a neutral, the parties shall utilize the services of State Mediation and Conciliation. In the event the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second labor organization has the support of at least 30 percent of the employees in the unit in which recognition is sought, the neutral third party shall order an election to establish which labor organization, if any, has majority status.

**Section 6. Procedure for Decertification of Exclusively Recognized Employee Organization**

- A. A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Personnel Director only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two 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 and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a 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 thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Personnel Director or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.
- B. An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty percent (30%), that includes the allegation and information required under paragraph 3 of this Section, and otherwise conforms to the requirements of Section 1 (*Filing of Recognition Petition by Employee Organization*) of this Article.

- C. The Personnel Director shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 8 (*Appeals*) of this Article. If the determination of the Personnel Director is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.
- D. The Personnel Director 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 a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 5 (*Election Procedure*) of this Article.
- E. During the "open period" specified in the first paragraph of this Section, the Personnel Director may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Section, which the Personnel Director shall act on in accordance with this Section.
- F. If pursuant to this Section a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

#### **Section 7. Procedure for Modification of Established Appropriate Unit(s)**

- A. Requests by employee organizations for modifications of established appropriate units may be considered by the Personnel Director only during the period specified in Section 6 (*Procedure for Decertification of Exclusively Recognized Employee Organization*) of this Article. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 1 (*Filing of Recognition Petition by Employee Organization*) of this Article, 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 4 (*Policy and Standards for Determination of Appropriate Unit(s)*) of this Article. The Personnel Director shall process such petitions as other Recognition Petitions under this Article.

- B. The Personnel Director may by his/her own motion propose that an established unit be modified. The Personnel Director 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 Personnel Director shall determine the composition of the appropriate unit or units in accordance with Section 4 (*Policy and Standards for Determination of Appropriate Unit(s)*) of this Article and shall give written notice of such determination to the affected employee organizations. The Personnel Director's determination may be appealed as provided in Section 8 (*Appeals*) of this Article. If a unit is modified pursuant to the motion of the Personnel Director hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 1 (*Filing of Recognition Petition by Employee Organization*) of this Article.

### **Section 8. Appeals**

- A. An employee organization aggrieved by the appropriate unit determination of the Personnel Director; or an employee organization aggrieved by a determination of the Personnel Director that a Recognition Petition (Section 1), Challenging Petition (Section 3), Decertification Petition (Section 6) or Unit Modification Petition (Section 7); or employees aggrieved by a determination of the Personnel Director that a Decertification Petition (Section 6) has not been filed in compliance with the applicable provisions of this Article, may, within ten (10) days of notice of the Personnel Director's final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service or may, in lieu thereof, or within ten (10) days after one party gives notice to the other that mediation has not been successful, appeal such determination to the Board of Supervisors for final decision within fifteen (15) days of notice of the Personnel Director's determination or the termination of mediation proceedings, whichever is later.
- B. Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board and a copy thereof served on the Personnel Director. The Board of Supervisors shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Board of Supervisors may, in its discretion, refer all or part of the dispute to a third party hearing process. Any decision of the Board of Supervisors on the use or form of such procedure and/or any decision of the Board of Supervisors determining the substance of the dispute shall be final and binding.

## **ARTICLE III – ADMINISTRATION**

### **Section 1. Employee Organization Activities – Use of County Resources**

- A. Access of County work locations and the use of County 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 lawful activities consistent with the provisions of this Resolution that pertain directly to the

employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office and organization meetings and elections and shall not interfere with the efficiency, safety and security of County operations.

## **Section 2. Administrative Rules and Procedures**

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

## **ARTICLE IV – IMPASSE PROCEDURES**

### **Section 1. Initiation of Impasse Procedures**

- A. Impasse procedures may be utilized only after the possibility of settlement through direct discussions between the designated County management representative(s) and the exclusively recognized employee organization have been exhausted. Either party may initiate impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all unresolved issues. The Personnel Director shall promptly schedule an impasse meeting. The purpose of such meeting shall be:
1. To review the position of the parties in a final effort to resolve such disputed issue(s) or to reach agreement on an MOU;
  2. To identify and specify in writing the issue(s) that remain in dispute; and
  3. If the impasse is not resolved, to select among the two categories of impasse procedures listed in Article IV, Section 2 (*Impasse Procedures*), of this Resolution.
- B. An impasse may be declared only after the procedures in this Section have been followed in good faith.

### **Section 2. Impasse Procedures**

- A. Impasse procedures are as follows (except for public safety personnel subject to impasse procedures under the Code of Civil Procedure):
1. If either party proposes to submit the dispute to mediation, the Personnel Director shall request a mediator from the California State Mediation and Conciliation Service or another mutually acceptable mediator. All mediation proceedings shall be private. The mediator must not make any public recommendations, make any public statements nor take any public position at any time concerning the issues. The County may decline to participate in mediation if there are any strikes or work stoppages.

2. If neither party requests mediation or, having utilized mediation, the impasse has not been resolved, the Personnel Director may submit the matter to the County Board of Supervisors, which must take such action regarding the impasse as it deems appropriate, including without limitation implementation of terms and conditions of employment for its employees in the bargaining unit, or maintaining the status quo.
3. For public safety personnel subject to impasse resolution procedures under section 1299, et seq., of the Code of Civil Procedure, the parties shall observe the requirements of State law. All parties reserve their right to challenge the validity of these State statutes.

### **Section 3. Costs of Impasse Procedures**

The cost, if any, for the service of any mediator and other mutually incurred costs of mediation, shall be borne equally by the County and the exclusively recognized employee organization.

### **ARTICLE V – MEETING AND CONFERRING IN GOOD FAITH**

- A. The County, through its designated representative(s), shall meet and confer in good faith with representatives of the exclusively recognized employee organization for an established bargaining unit in regard to the wages, hours, benefits, terms and conditions of employment for such unit of employees.
- B. The County's obligation to meet and confer is limited to those matters within the scope of representation under section 3504 of the California Government Code.
- C. Requests from exclusively recognized employee organizations for changes in wages, benefits, hours and other terms or conditions of employment shall be submitted to the Board by the first of April preceding the end of the term of the MOU currently in effect except as authorized by the Board.
- D. It is the intent of the Board that, if at all possible, a written MOU between the designated County representative(s) and the exclusively recognized employee organization be completed and presented to the Board prior to the end of the term of the MOU currently in effect for inclusion of resultant changes, if any, in the County's fiscal budget.
- E. It is the responsibility of an exclusively recognized employee organization to keep the County updated as to the street address of the organization; the names, titles, mailing addresses and telephone numbers of the organization's officers; and the names, addresses and telephone numbers of those persons who are authorized to represent the organization.

## ARTICLE VI – MISCELLANEOUS PROVISIONS

### Section 1. Construction

A. This Resolution must be administered and construed as follows:

1. Nothing in this Resolution should be construed to deny to any person, employee, organization, the County or any authorized officer, body or other representative of the County, the rights, powers and authority granted by federal or state law.
2. This Resolution should be interpreted so as to carry out its purposes as set forth in Article I (*General Provisions*).
3. Nothing in this Resolution shall be construed as making the provisions of California Labor Code, Section 923, applicable to County 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, sick-out or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the County, employees recognize that any such actions taken by them are in violation of their conditions of employment except as otherwise provided by legally preemptive state law.

### Section 2. Severability

If any provision of this Resolution, or the application of such provision to any persons or circumstance, is determined to be 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. Upon request by the County, a recognized bargaining representative will meet and consult with the County promptly upon request in an effort to resolve any amendments that are necessary or advisable in light of changes to existing law, or interpretations of the law that impact this resolution.

### Section 3. Effective Date

This Resolution shall be effective on and after the 3<sup>rd</sup> day of June, 2003.

### Section 4. Anti-Discrimination:

The County is committed to ensuring that its workplaces are free from discrimination and harassment made unlawful pursuant to Title VII of the Civil Rights Act, as amended, the Fair Employment and Housing Act, and other state and federal laws regarding discrimination. This resolution shall be interpreted to comply with such laws. All memoranda of understanding, including side letters, adopted pursuant to the MMBA and this resolution shall be interpreted to comply with such laws.

