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4 RESOLUTION NO. 4506

5 A RESOLUTION OF THE CITY OF MANHATTAN BEACH,
6 CALIFORNIA, APPROVING AND ADOPTING
7 AN EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS RESOLUTION

8 THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA,
9 DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

10 ARTICLE I. GENERAL PROVISIONS

11 Sec. 1. Statement of Purpose.

12 This Resolution implements Chapter 10, Division 4, Title 1
13 of the Government Code of the State of California (Sections 3500
14 et seq.) captioned "Local Public Employee Organizations," by
15 providing orderly procedures for the administration of employer-
16 employee relations between the City and its employee
17 organizations. However, nothing contained herein shall be deemed
18 to supersede the provisions of State law, City ordinances,
19 resolutions and rules which establish and regulate the merit and
20 civil service system, or which provide for other methods of
21 administering employer-employee relations. This Resolution is
22 intended, instead, to strengthen merit, civil service and other
23 methods of administering employer-employee relations through the
24 establishment of uniform and orderly methods of communications
25 between employees, employee organizations, and the City.

26 It is the purpose of this Resolution to provide procedures
27 for meeting and conferring in good faith with Recognized Employee
28 Organizations regarding matters that directly affect and
29 primarily involve the wages, hours and other terms and conditions
30 of employment of employees in appropriate units and that are not
31 preempted by Federal or State law. However, nothing herein shall
32 be construed to restrict any legal or inherent exclusive City
rights with respect to matters of general legislative or
managerial policy.

23 Sec. 2. Definitions.

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

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

27 b. "City" means the City of Manhattan Beach, and where
28 appropriate herein, refers to the City Council or any duly
authorized City representative as herein defined.

29 c. "Confidential Employee" means an employee, who, in the
30 course of his or her duties, has access to information
31 relating to the City's administration of employer-employee
32 relations.

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2 d. "Consult/Consultation in Good Faith" means to
3 communicate orally or in writing for the purpose of
4 presenting and obtaining views or advising of intended
5 actions; and, as distinguished from meeting and conferring
6 in good faith regarding matters within the required scope
7 of such meet and confer process, does not involve an
8 exchange of proposals and counterproposals in an endeavor
9 to reach agreement, nor is it subject to Article IV
10 hereof.

11 e. "Day" means calendar day unless expressly dated
12 otherwise.

13 f. "Employee Relations Officer" means the City Manager or
14 his/her duly authorized representative.

15 g. "Employee Organization" means any organization which
16 includes employees of the City and which has as one of its
17 primary purposes representing such employees in their
18 relations with the City.

19 h. "Exclusively Recognized Employee Organization" means
20 an employee organization which has been formally
21 acknowledged (after an election) by the City as the sole
22 employee organization that represents the employees in an
23 appropriate representation unit pursuant to Article II
24 hereof.

25 i. "Impasse" means that the representatives of the City
26 and a Recognized Employee Organization have reached a
27 point in their meeting and conferring in good faith where
28 their differences on matters to be included in a
29 Memorandum of Understanding, and concerning which they are
30 required to meet and confer, remain so substantial and
31 prolonged that further meeting and conferring would be
32 futile.

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

k. "Meet and Confer in Good Faith" means that a public
agency or such representatives as it may designate and
representatives of recognized employee organizations shall
have the mutual obligation personally to meet and confer
promptly upon request by either party and continue for a
reasonable period of time in order to exchange freely
information, opinions, and proposals and to endeavor to
reach agreement on matters within the scope of
representation. The obligation to meet and confer in good
faith does not compel the representatives of either party
to agree to a proposal or to make a concession.

1. "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 recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. 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 one hundred eighty (180) days prior to the filing of a petition.

m. "Professional Employee" means any employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction.

n. "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit pursuant to Article II hereof.

o. "Supervisory Employee" means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not a merely routine or clerical nature, but requires the use of independent judgement.

ARTICLE II -- REPRESENTATION PROCEEDINGS

Sec. 3. 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 Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- e. A statement whether the employee organization is a chapter 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.

1 f. Certified copies of the employee organization's
2 constitution and by-laws.

3 g. A designation of those persons, not exceeding two in
4 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.

5 h. A statement that the employee organization has no
6 restriction on membership based on race, color, creed,
sex, national origin, age, marital status, medical
condition, political affiliation, or physical disability.

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

9 j. A statement that the employee organization has in its
10 possession proof of employee support as herein defined to
11 establish that a majority of the employees in the unit
12 claimed to be appropriate have designated the employee
organization to represent them in their employment
relations with the City. Such written proof shall be
submitted for confirmation to the Employee Relations
Officer.

13 k. A request that the Employee Relations Officer formally
14 acknowledge the petitioner as the Exclusively Recognized
15 Employee Organization representing the employees in the
16 unit claimed to be appropriate for the purpose of meeting
and conferring in good faith.

17 The Petition, including the proof of employee support and
18 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.

19 Each City employee shall have the right to form, join, and
20 participate in the activities of employee organizations of
his/her own choosing for the purpose of representation on all
21 matters of employer-employee relations. Each City employee
shall also have the right to refuse to join or participate in
22 the activities of employee organizations and shall have the
right to represent himself/herself individually in his/her
23 employment relations with the City.

24 Notwithstanding the foregoing paragraph, the City Council
25 hereby designates the classifications and positions comprising
the sworn Police Unit as having duties consisting primarily of
26 the enforcement of State and local laws, and employees in these
classifications and positions shall be limited to forming,
27 joining, participating and being represented by employee
organizations which are composed solely of such law enforcement
employees, and which are not subordinate to any other
28 organization.

29 No person shall interfere with, intimidate, restrain,
30 coerce, or discriminate against any employee because of his/her
exercise of any of these rights.

31 Sec. 4. City Response to Recognition Petition.

32 Upon receipt of the Petition, the Employee Relations
Officer shall determine whether:

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

3 b. The proposed representation unit is an appropriate
4 unit in accordance with Sec. 8 of this Article II.

5 If an affirmative determination is made by the Employee
6 Relations Officer on the foregoing two matters, he/she shall so
7 inform the petitioning employee organization, shall give written
8 notice of such request for recognition to the employees in the
9 unit, and shall take no action on said request for thirty (30)
10 days thereafter. If either of the foregoing matters are not
11 affirmatively determined, the Employee Relations Officer shall
12 offer to consult thereon with such petitioning employee
13 organization, and if such determination thereafter remains
14 unchanged, shall inform that organization of the reasons
15 therefore in writing. The petitioning employee organization may
16 appeal such determination in accordance with Sec. 10 of this
17 Resolution.

18 Sec. 5. Open Period for Filing Challenging Petition.

19 Within thirty (30) days of the date written notice was
20 given to affected employees that a valid recognition petition
21 for an appropriate unit has been filed, any other employee
22 organization may file a competing request to be formally
23 acknowledged as the recognized employee organization of the
24 employees in the same or in an overlapping unit (one which
25 corresponds with respect to some but not all the classifications
26 or positions set forth in the recognition petition being
27 challenged), by filing a petition evidencing proof of employee
28 support in the unit claimed to be appropriate of at least thirty
29 (30) percent and otherwise in the same form and manner as set
30 forth in Sec. 3 of this Article II. If such challenging
31 petition seeks establishment of an overlapping unit, the
32 Employee Relations Officer shall call for a hearing on such
overlapping petitions for the purpose of ascertaining the more
appropriate unit, at which time the petitioning employee
organizations shall be heard. Thereafter, the Employee
Relations Officer shall determine the appropriate unit or units
in accordance with the standards in Sec. 8 of this Article II.
The petitioning employee organizations shall have fifteen (15)
days from the date notice of such unit determination is
communicated to them by the Employee Relations Officer to amend
their petitions to conform to such determination or appeal such
determination pursuant to Sec. 10 of this Article II.

33 Sec. 6. Election Procedure.

34 The Employee Relations Officer shall arrange for a secret
35 ballot election to be conducted by a party agreed to by the
36 Employee Relations Officer and the concerned employee
37 organization(s), in accordance with its rules and procedures
38 subject to the provisions of this Resolution. All employee
39 organizations who have duly submitted petitions which have been
40 determined to be in conformance with this Article II shall be
41 included on the ballot. The choice of "no organization" shall
42 also be included on the ballot. Employees entitled to vote in
43 such election shall be those persons employed in regular
44 permanent positions within the designated appropriate unit who
45 were employed during the pay period immediately prior to the
46 date which ended at least fifteen (15) days before the date the
47 election commences, including those who did not work during such
48 period because of illness, vacation, or other authorized leaves
49 of absence, and who are employed by the City in the same unit on
50 the date of the election. An employee organization shall be

1 tormally acknowledged as the Exclusively Recognized Employee
2 Organization for the designated appropriate unit following an
3 election or run-off election if it received a numerical majority
4 of all valid votes cast in the election. In an election
5 involving three or more choices, a choice receiving a plurality
6 shall prevail.

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

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

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

16 Sec. 7. Procedure for Decertification of Recognized
17 Employee Organization.

18 A Decertification Petition alleging that the incumbent
19 Exclusively Recognized Employee Organization no longer
20 represents a majority of the employees in an established
21 appropriate unit may be filed with the Employee Relations
22 Officer only during the month of January of any year following
23 the first full year of recognition or during the thirty (30) day
24 period commencing one hundred eighty (180) days prior to the
25 termination date of a Memorandum of Understanding then in
26 effect, whichever occurs later. A Decertification Petition may
27 be filed by two or more employees or their representative, or an
28 employee organization, and shall contain the following
29 information and documentation declared by the duly authorized
30 signatory under penalty of perjury to be true, correct, and
31 complete:

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

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

c. 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.

d. Proof of employee support that at least thirty (30)
percent 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 Employee
Organization. Such proof shall be submitted for
confirmation to the Employee Relations Officer or to a
mutually agreed upon disinterested third party within the
time limits specified in the first paragraph of this
Section.

1 An employee organization may, in satisfaction of the
2 Decertification Petition requirements hereunder, file a Petition
3 under this section in the form of a Recognition Petition that
4 evidences proof of employee support of at least thirty (30)
5 percent and otherwise conforms to the requirements of Section 3
6 of this Article.

7 The Employee Relations Officer shall initially determine
8 whether the Petition has been filed in compliance with the
9 applicable provisions of this Article II. If his/her
10 determination is in the negative, he/she shall offer to consult
11 thereon with the representative(s) of such petitioning employees
12 or employee organization, and, if such determination thereafter
13 remains unchanged, shall return such Petition to the employees
14 or employee organization with a statement of the reasons
15 therefore in writing. The petitioning employees or employee
16 organization may appeal such determination in accordance with
17 Sec. 10 of this Article II. If the determination of the
18 Employee Relations Officer is in the affirmative, or if his/her
19 negative determination is reversed on appeal, he/she shall give
20 written notice of such Decertification or Recognition Petition
21 to the incumbent Exclusively Recognized Employee Organization
22 and to unit employees.

23 The Employee Relations Officer shall thereupon arrange for
24 a secret ballot election to be held on or about thirty (30) days
25 after such notice to determine the wishes of unit employees as
26 to the question of decertification, and, if a Recognition
27 Petition was duly filed hereunder, the question of
28 representation. Such election shall be conducted in conformance
29 with Sec. 6 of this Article II.

30 The City Council may suspend or withdraw any and all
31 privileges, subject to state statutory and case law, afforded to
32 the recognized employee organization if the City Council finds
33 that the representatives or members of the organization have
34 engaged in, caused, instigated, encouraged, or condoned a work
35 stoppage of any kind. As used in this section, "work stoppage"
36 means the concerted failure to report to duty, the willful
37 absence from one's position, the stoppage of work, or the
38 abstinence in whole or in part from the full, faithful and
39 proper performance of the duties of employment for the purpose
40 of inducing, influencing, or coercing a change in the conditions
41 of compensation or the rights, privileges, or obligations of
42 employment.

43 Sec. 8. Policy and Standards for Determination of
44 Appropriate Units.

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

55 a. Similarity of the general kinds of work performed,
56 types of qualifications required, and the general working
57 conditions.

b. History of representation in the City and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

c. Consistency with the organizational patterns of the City.

d. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classification and proliferation of units.

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

Notwithstanding the foregoing provisions of this Section (except as provided in the appropriate M.O.U.), management and confidential employees shall not be included in any unit containing non-management and confidential employees, and such unit shall not be represented by a Recognized Employee Organization that represents non-supervisory employees of the City; and professional employees shall not be denied the right to be represented in a separate unit from non-professional employees.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate, or delete modified classifications or positions from units in accordance with the provisions of this Section.

Sec. 9. Procedure for Modification of Established Appropriate Units.

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Sec. 7 of this Article II. Such requests shall be submitted in the form of Recognition Petition, and, in addition to the requirements set forth in Sec. 3 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 Sec. 8 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may, on his/her own motion, propose during the period specified in Sec. 7 of this Article or during the course of meet and confer that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 8 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Sec. 11 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Sec. 3 hereof.

1 Sec. 10. Procedure for Affiliation or Disaffiliation

2 Requests by employee organizations for affiliation or
3 disaffiliation of established appropriate units may be
4 considered by the Employee Relations Officer only during the
5 period specified in Sec. 7 of this Article II. Such requests
6 shall be submitted in the form of Recognition Petition, and, in
7 addition to the requirements set forth in Sec. 3 of this
8 Article, shall contain a complete statement of all relevant
9 facts and citations in support of the proposed affiliated or
10 disaffiliated unit in terms of the policies and standards set
11 forth in Sec. 8 hereof. The Employee Relations Officer shall
12 process such petitions as other Recognition Petitions under this
13 Article II.

14 Sec. 11. Appeals.

15 An employee organization aggrieved by an appropriate unit
16 determination of the Employee Relations Officer under this
17 Article II may, within ten (10) days of notice thereof, request
18 the intervention of the California State Conciliation Service
19 pursuant to Government Code Sections 3507.1 and 3507.3, or may,
20 in lieu thereof or thereafter, appeal such determination to the
21 City Council for final decision within fifteen (15) days of
22 notice of the Employee Relations Officer's determination or the
23 termination of proceedings pursuant to Government Code Sections
24 3507.1 or 3507.3, whichever is later.

25 An employee organization aggrieved by a determination of
26 the Employee Relations Officer that a Recognition Petition (Sec.
27 3), Challenging Petition (Sec. 5), Decertification of
28 Recognition Petition (Sec. 7), Modification Petition (Sec. 9) or
29 Affiliation Petition (Sec. 10), has not been filed in compliance
30 with the applicable provisions of this Article, may, within
31 fifteen (15) days of notice of such determination, appeal the
32 determination 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 Employee
Relations Officer. The City Council shall commence to consider
the matter within thirty (30) days of the filing of the appeal.
The City Council may, in its discretion, refer the dispute to a
third party hearing process. Any decision of the City Council
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.

 A decision of the City Council is final and binding for
purposes of exhaustion of administrative remedies. The
provisions of Code of Civil Procedure 1094.6 apply to such
decisions.

 ARTICLE III -- ADMINISTRATION

 Sec. 12. 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 a.
through h. of its Recognition Petition under Sec. 3 of this
Resolution shall be submitted in writing to the Employee
Relations Officer within fourteen (14) days of such change.

1 Sec. 13. Payroll Deductions on Behalf of Employee
2 Organizations.

3 Upon formal acknowledgment by the City of an exclusively
4 Recognized Employee Organization under this Resolution, only
5 such Exclusively Recognized Employee Organization may be
6 provided payroll deductions of membership dues upon the written
7 authorization of employees in the unit represented by the
8 Exclusively Recognized Employee Organization on forms provided
9 therefore by the City. The providing of such service to the
10 Exclusively Recognized Employee Organization by the City shall
11 be contingent upon and in accordance with the provisions of
12 Memoranda of Understanding an/or applicable administrative
13 procedures.

14 Sec. 14. Employee Organizations Activities - Use of City
15 Resources.

16 Access to City work locations and the use of City paid
17 time, facilities, equipment, and other resources by employee
18 organizations and those representing them shall be authorized
19 only to the extent provided for in the Memorandum of
20 Understanding, administrative procedures, or as special
21 authorization granted by the affected department head, and shall
22 be limited to activities pertaining directly to the
23 employer-employee relationship and not such internal employee
24 organization business as soliciting membership, campaigning for
25 office, and organization meetings and elections, and shall not
26 interfere with the efficiency safety, and security of City
27 operations.

28 The internal business of any employee organization,
29 including but not limited to such matters as the solicitation of
30 memberships, collection of money, and the election of officers
31 shall not be performed during the working hours of the affected
32 City employees unless otherwise authorized by the affected
33 department head.

34 Not more than three City employees (unless otherwise
35 agreed by the City) who have been designated as the
36 representatives of a Recognized Employee Organization shall be
37 allowed a reasonable amount of time off without loss of
38 compensation or other benefits for the purpose of attending a
39 meeting with the authorized representative of the City if the
40 meeting is scheduled to be held during working hours.

41 Sec. 15 Emergency City Council Action

42 In cases of emergency, when the City Council determines
43 that an ordinance, resolution, or rule must be acted upon
44 immediately without prior notice of those recognized employee
45 organizations whose members are affected by it, notice of the
46 action taken on the ordinance, resolution or rule shall be
47 mailed to each such recognized employee organization. The
48 notice shall specify that the representatives of each such
49 recognized employee organization shall have an opportunity to be
50 heard with reference to the ordinance, resolution, or rule at
51 the next regular meeting of the City Council.

52 Sec. 16. Administrative Rules and Procedures.

53 The City Manager is hereby authorized to establish such
54 rules and procedures as appropriate to implement and administer
55 the provisions of this Resolution after consultation with
56 affected employee organizations.

1 If the representatives of recognized employee organization
2 desire to meet with the City Manager, they shall make their
3 request in writing and specify the matters to be discussed.
4 Upon the receipt of the request, a mutually satisfactory time
5 and place shall be arranged for the meeting. Only those matters
6 specified in the notice may be discussed at the meeting. Other
7 matters may be discussed by mutual consent of all of the
8 representatives present.

9 If agreement is reached with respect to any matter
10 considered at any meeting, the City Manager, and the
11 representatives of the recognized employee organization shall
12 jointly prepare a written memorandum of such understanding which
13 shall not be binding and shall present it to the City Council
14 for determination.

15 The City Manager need not meet with the representatives of
16 any recognized employee organization to consider:

17 a. Issues of public policy;

18 b. The merits, necessity, or organization of any
19 department, service, or activity provided by the City
20 pursuant to law or ordinance;

21 c. Matters which relate to the management of the City or
22 the direction of its work force, including the right to
23 direct employees, to hire, promote, transfer, assign or
24 retain employees, or suspend, demote, discharge, or take
25 proper disciplinary action against employees, maintain the
26 efficiency of the operation of the City government, and
27 take any actions necessary to meet conditions of an
28 emergency nature.

29 The City Manager need not meet with the representatives of
30 any recognized employee organization to consider the personal
31 grievance of an individual employee or group of employees until
32 the procedure for the resolution of grievances provided for in
33 the Rules and Regulations for the administration of the Civil
34 Service System of said City has been completed.

35 After consultation in good faith with representatives of
36 affected recognized employee organizations, the City Manager
37 may, from time to time, recommend to the City Council the
38 adoption of such ordinances, rules, or regulations as may be
39 necessary or desirable to facilitate the administration of
40 employer-employee relations.

41 ARTICLE IV -- IMPASSE PROCEDURES

42 Sec. 17. Initiation of Impasse Procedures.

43 If the meet and confer process has reached impasse as
44 defined in this Resolution, either party may initiate the
45 impasse procedures by filing with the other party a written
46 request for an impasse meeting, together with a statement of its
47 position on all disputed issues. An impasse meeting shall then
48 be scheduled promptly by the Employee Relations Officer. The
49 purpose of such impasse meeting shall be:

50 a. To identify and specify in writing the issue or issues
51 that remain in dispute; and,

52 b. To review the position of the parties in a final
53 effort to resolve such disputed issue or issues.

1 If agreement is not reached with respect to any matter,
2 the representatives of the recognized employee organization may
3 file with the City Council a written statement of the
4 organization's position with reference to that matter. The City
5 Manager may also file with the City Council a written statement
6 of his/her position with reference to that matter. Before
7 determining the issue, The City Council shall fix a time and
8 place to receive any additional pertinent information that may
9 be orally presented to it.

10 ARTICLE V -- MISCELLANEOUS PROVISIONS

11 Sec. 18. Construction.

12 This Resolution shall be administered and construed as
13 follows:

14 a. Nothing in this Resolution shall be construed to deny
15 to any person, employee, organization, the City, or any
16 authorized officer, body, or other representative of the
17 City, the rights, powers, and authority granted by Federal
18 or State law (or City Charter provisions).

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

21 c. Nothing in this Resolution shall be construed as
22 making the provisions of California Labor Code Section 923
23 applicable to City employees or employee organizations, or
24 of giving employees or employee organizations the right to
25 participate in, support, cooperate or encourage, directly
26 or indirectly, any strike, sick-out, or other total or
27 partial stoppage or slowdown of work. In the event
28 employees engage in such actions, they shall subject
29 themselves to discipline up to and including termination
30 and may be deemed to have abandoned their employment.

31 Sec. 19. Acknowledgement of Existing Employee 32 Organizations and Representation Units.

The City formally acknowledges that, at the time of
adoption of this Resolution:

a. The City shall conduct an election pursuant to Section
6 to determine the Exclusively Recognized Employee
Organization for full-time job classifications in the
miscellaneous group (except management/confidential)
between SEIU/CLOCEA, Teamsters, and "no representation".
Sections 3, 4, and 5 shall not apply to this election.

b. Within thirty (30) days of the adoption of this
Resolution by the City Council, the City shall conduct an
election for ratification of exclusive recognition in the
sworn police and sworn fire units. Such ratification
elections shall not be subject to the provisions of
Article II of this Resolution.

1 Sec. 20. Management and Confidential Employees.

2 Various positions are hereby designated management and
3 confidential positions as are listed in the Resolution
4 establishing and describing the administrative organization
5 of the City Government; creating various classes of
6 positions, and providing for the rate of compensation
7 therefore.

8 Such management and confidential employees shall not
9 represent any employee organization which represents other
10 employees of the City in matters relating to employment
11 conditions and employer-employee relations including but not
12 limited to wages, hours, and other terms and conditions of
13 employment. Nor shall such management and confidential
14 employees participate as observers in any meet and confer or
15 meet and consult process involving an employee organization
16 which represents other employees.

17 Sec. 21. Severability.

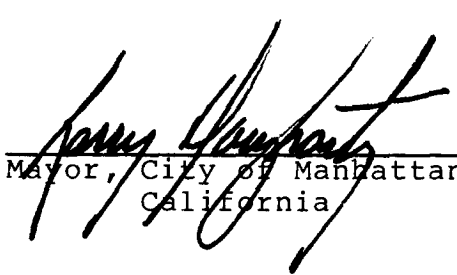
18 If any provision of this Resolution or the application
19 of such provision to any person or circumstance, shall be
20 held invalid, the remainder of this Resolution, or the
21 application of such provision to persons or circumstances
22 other than those as to which it is held invalid, shall not be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

24 Sec. 22. City Clerk Action.

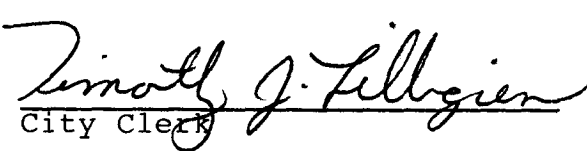
25 The City Clerk shall certify to the passage and adoption
26 of this Resolution; shall enter the same in the Book of
27 Resolutions of said City; and shall cause the action of the
28 City Council in adopting the same to be entered in the
29 official minutes of said City Council.

30 PASSED, APPROVED and ADOPTED this 19th day of July,
31 1988.

32 Ayes: Barnes, Collins, Holmes, Sieber & Mayor Dougharty
 Noes: None
 Attest: None
 Abstain: None


Mayor, City of Manhattan Beach,
California

ATTEST:


City Clerk

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STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, TIMOTHY J. LILLIGREN, City Clerk of the City of
Manhattan Beach, California, do hereby certify that the whole
number of members of the City Council of said City is five;
that the foregoing resolution, being Resolution No. 4506,
was duly and regularly introduced before and adopted by the
City Council of said City at a regular meeting
of said Council, duly and regularly held on the 19th
day of July, 1988, and that the same was so
passed and adopted by the following vote, to wit:

AYES: Barnes, Collins, Holmes, Sieber & Mayor Dougharty
NOES: None
ABSENT: None
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto subscribed my name
and affixed the official seal of said City this 21st
day of July, A.D., 1988.

Timothy J. Lilligren
City Clerk of the City of
Manhattan Beach, California

(SEAL)